

# HOUSE JOURNAL

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EIGHTY-SECOND LEGISLATURE, FIRST CALLED SESSION

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## PROCEEDINGS

SIXTEENTH DAY — TUESDAY, JUNE 28, 2011

The house met at 2 p.m. and was called to order by the speaker.

The roll of the house was called and a quorum was announced present (Record 136).

Present — Mr. Speaker; Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Castro; Chisum; Christian; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; Garza; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Peña; Perry; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Absent, Excused — Driver.

Absent — Paxton.

The invocation was offered by Representative Landtroop.

The speaker recognized Representative Strama who led the house in the pledges of allegiance to the United States and Texas flags.

### HR 232 - NOTICE OF INTRODUCTION

Pursuant to the provisions of Rule 13, Section 9(f) of the House Rules, the speaker announced the introduction of **HR 232**, suspending the limitations on the conferees for **SB 1**.

### HR 218 - NOTICE OF INTRODUCTION

Pursuant to the provisions of Rule 13, Section 9(f) of the House Rules, the speaker announced the introduction of **HR 218**, suspending the limitations on the conferees for **HB 3**.

### BILLS AND RESOLUTIONS SIGNED BY THE SPEAKER

Notice was given at this time that the speaker had signed bills and resolutions in the presence of the house (see the addendum to the daily journal, Signed by the Speaker, House List No. 1 and Senate List No. 4).

### LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence for the remainder of today because of important business in the district:

Hamilton on motion of Zerwas.

### HCR 5 - ADOPTED

(by Harper-Brown, Fletcher, Cook, Gallego, Simpson, et al.)

Representative Harper-Brown moved to suspend all necessary rules to take up and consider at this time **HCR 5**.

The motion prevailed.

The following resolution was laid before the house:

**HCR 5**, Urging Congress to take appropriate action to ensure acceptable treatment of the public by personnel of the Transportation Security Administration.

**HCR 5** was adopted by (Record 137): 131 Yeas, 11 Nays, 1 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Castro; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Dukes; Eiland; Eissler; Elkins; Fletcher; Flynn; Frullo; Gallego; Garza; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; McClendon; Menendez; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Peña; Perry; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Taylor, L.; Taylor, V.; Truitt; Turner; Villarreal; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Burnam; Dutton; Farias; Farrar; Gutierrez; Martinez Fischer; Strama; Thompson; Veasey; Vo; Walle.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Driver; Hamilton.

Absent — Anchia; Coleman; Miles; Paxton; Torres.

### STATEMENT OF VOTE

When Record No. 137 was taken, I was in the house but away from my desk. I would have voted yes.

Paxton

(Paxton now present)

### LEAVES OF ABSENCE GRANTED

The following members were granted leaves of absence for the remainder of today because of important business in the district:

Lucio on motion of Lozano.

V. Taylor on motion of Lewis.

### RESOLUTIONS ADOPTED

Representative Naishtat moved to suspend all necessary rules to take up and consider at this time **HR 125** and **HR 259**.

The motion prevailed.

The following resolutions were laid before the house:

**HR 125** (by Naishtat), Honoring the Center for Public Policy Priorities on its 25th anniversary.

**HR 259** (by Naishtat), Recognizing July 2011 as DoubleTree by Hilton Chocolate Chip Cookie Month in Texas.

The resolutions were adopted.

### HCR 21 - ADOPTED

(by Branch, Giddings, Alonzo, and Y. Davis)

Representative Branch moved to suspend all necessary rules to take up and consider at this time **HCR 21**.

The motion prevailed.

The following resolution was laid before the house:

**HCR 21**, Congratulating the Dallas Mavericks on winning the 2011 NBA championship.

**HCR 21** was adopted.

On motion of Representative Burkett, the names of all the members of the house were added to **HCR 21** as signers thereof.

**HR 218 - ADOPTED**  
**(by Smithee)**

The following privileged resolution was laid before the house:

**HR 218**

BE IT RESOLVED by the House of Representatives of the State of Texas, 82nd Legislature, 1st Called Session, 2011, That House Rule 13, Section 9(a), be suspended in part as provided by House Rule 13, Section 9(f), to enable the conference committee appointed to resolve the differences on **HB 3** (the operation of the Texas Windstorm Insurance Association, the resolution of certain disputes concerning claims made to that association, and the issuance of windstorm and hail insurance policies in the private insurance market by certain insurers; providing penalties) to consider and take action on the following matters:

(1) House Rule 13, Sections 9(a)(1) and (3), are suspended to permit the committee to change and add text on a matter which is not in disagreement in added Section 2210.260(d), Insurance Code, to read as follows:

(d) Except as provided by Sections 2210.251(d), (e), and (f), a person who has an insurable interest in a residential structure that is insured by the association as of August 31, 2012, but for which the person has not obtained a certificate of compliance under Section 2210.251(g), must obtain an alternative certification under this section before the association, on or after August 31, 2013, may renew coverage for the structure.

Explanation: The change and addition of text are necessary to clarify the structures to which Section 2210.260(d), Insurance Code, does not apply and to change the date on which compliance with that section becomes mandatory before the Texas Windstorm Insurance Association may renew coverage for an insured structure.

(2) House Rule 13, Section 9(a)(2), is suspended to permit the committee to omit text adding Section 2210.502(e), Insurance Code, by striking the section of the bill that added that subsection.

Explanation: The omission of the text is necessary to avoid statutorily establishing a maximum liability limit for windstorm and hail insurance policies issued by the Texas Windstorm Insurance Association.

(3) House Rule 13, Section 9(a)(4), is suspended to permit the committee to add text on a matter that is not included in either the house or senate version of the bill in added Section 2210.573(d), Insurance Code, to read as follows:

(d) Unless the applicable 60-day period described by this subsection is extended by the commissioner under Section 2210.581, not later than the later of the 60th day after the date the association receives a claim or the 60th day after the date the association receives information requested under Subsection (b), the association shall provide the claimant, in writing, notification that:

- (1) the association has accepted coverage for the claim in full;
- (2) the association has accepted coverage for the claim in part and has denied coverage for the claim in part; or
- (3) the association has denied coverage for the claim in full.

Explanation: The addition of the text is necessary to ensure that any commissioner extension of the 60-day period described by Section 2210.573(d) is included in the 120-day aggregated total of commissioner extensions under Section 2210.581, Insurance Code, as proposed in the bill.

(4) House Rule 13, Section 9(a)(4), is suspended to permit the committee to add text on a matter that is not included in either the house or senate version of the bill in added Section 2210.575(d), Insurance Code, to read as follows:

(d) Alternative dispute resolution under this section must be completed not later than the 60th day after the date a request for alternative dispute resolution is made under Subsection (c). The 60-day period described by this subsection may be extended by the commissioner by rule in accordance with Section 2210.581 or by the association and a claimant by mutual consent.

Explanation: The addition of the text is necessary to ensure that any commissioner extension of the 60-day period described by Section 2210.575(d) is included in the 120-day aggregated total of commissioner extensions under Section 2210.581, Insurance Code, as proposed in the bill.

(5) House Rule 13, Section 9(a)(4), is suspended to permit the committee to add text on a matter that is not included in either the house or senate version of the bill by adding Sections 2210.581 and 2210.582, Insurance Code, to read as follows:

Sec. 2210.581. COMMISSIONER EXTENSION OF DEADLINES. (a) Subject to Subsection (b), the commissioner, on a showing of good cause, may by rule extend any deadline established under this subchapter.

(b) With reference to claims filed during a particular catastrophe year, the extension of deadlines under Subsection (a) may not exceed 120 days in the aggregate.

(c) For the purposes of Subsection (a), "good cause" includes military deployment.

Sec. 2210.582. OMBUDSMAN PROGRAM. (a) The department shall establish an ombudsman program to provide information and educational programs to assist persons insured under this chapter with the claim processes under this subchapter.

(b) Not later than March 1 of each year, the department shall prepare and submit to the commissioner a budget for the ombudsman program, including approval of all expenditures incurred in administering and operating the program. The commissioner shall adopt or modify and adopt the budget not later than April 1 of the year in which the budget is submitted.

(c) Not later than May 1 of each year, the association shall transfer to the ombudsman program money in an amount equal to the amount of the budget adopted under Subsection (b). The ombudsman program, not later than April 30 of each year, shall return to the association any unexpended funds that the program received from the association in the previous year.

(d) The department shall, not later than 60 days after the date of a catastrophic event, prepare and submit an amended budget to the commissioner for approval and report to the commissioner the approximate number of claimants eligible for ombudsman services. The commissioner shall adopt rules as

necessary to implement an amended budget submitted under this section, including rules regarding the transfer of additional money from the association to the program.

(e) The ombudsman program may provide to persons insured under this chapter information and educational programs through:

- (1) informational materials;
- (2) toll-free telephone numbers;
- (3) public meetings;
- (4) outreach centers;
- (5) the Internet; and
- (6) other reasonable means.

(f) The ombudsman program is administratively attached to the department. The department shall provide the staff, services, and facilities necessary for the ombudsman program to operate, including:

(1) administrative assistance and service, including budget planning and purchasing;

- (2) personnel services;
- (3) office space; and
- (4) computer equipment and support.

(g) The ombudsman program shall prepare and make available to each person insured under this chapter information describing the functions of the ombudsman program.

(h) The association, in the manner prescribed by the commissioner by rule, shall notify each person insured under this chapter concerning the operation of the ombudsman program.

(i) The commissioner may adopt rules as necessary to implement this section.

Explanation: The addition of Section 2210.581, Insurance Code, is necessary to grant the commissioner of insurance limited authority to extend by rule any deadline under Subchapter L-1, Chapter 2210, Insurance Code, as proposed in the bill. The addition of Section 2210.582, Insurance Code, is necessary to establish an ombudsman program to provide information and educational programs to persons insured under Chapter 2210, Insurance Code, to assist those persons with the claims processes established under Subchapter L-1, Chapter 2210, Insurance Code, as proposed in the bill.

(6) House Rule 13, Section 9(a)(2), is suspended to permit the committee to omit text that is not in disagreement in amended Section 2210.613(c)(1)(E), Insurance Code, so that Subsection (c) reads as follows:

(c) The premium surcharge under Subsection (b) shall be assessed on all policyholders of policies that cover ~~who reside or have operations in, or whose~~ insured property that is located in a catastrophe area, including automobiles principally garaged in a catastrophe area. The premium surcharge shall be assessed on ~~for~~ each Texas windstorm and hail insurance policy and each property and casualty insurance policy, including an automobile insurance policy, issued for automobiles and other property located in the catastrophe area. A premium surcharge under Subsection (b) applies to:

- (1) all policies written under the following lines of insurance:  
(A) fire and allied lines;  
(B) farm and ranch owners;  
(C) residential property insurance;  
(D) private passenger automobile liability and physical damage insurance; and  
(E) commercial automobile liability and physical damage insurance; and  
(2) the property insurance portion of a commercial multiple peril insurance policy ~~[that provide coverage on any premises, locations, operations, or property located in the area described by this subsection for all property and casualty lines of insurance, other than federal flood insurance, workers' compensation insurance, accident and health insurance, and medical malpractice insurance].~~

Explanation: The omission of the text is necessary to clarify the lines of commercial automobile insurance to which a premium surcharge under Section 2210.613, Insurance Code, applies.

(7) House Rule 13, Section 9(a)(1), is suspended to permit the committee to change text on a matter which is not in disagreement in proposed SECTION 60(a) of the bill to read as follows:

(a) A legislative interim study committee shall conduct a study of alternative ways to provide insurance to the seacoast territory of this state, including through a quasi-governmental entity.

Explanation: The addition of the text is necessary to allow the legislative interim study committee established under SECTION 60 of the bill to study a broader range of alternative ways in which windstorm and hail insurance may be provided in the seacoast territory of this state.

(8) House Rule 13, Section 9(a)(1), is suspended to permit the committee to change text on a matter which is not in disagreement in proposed SECTION 60(d)(1) of the bill so that Subsection (d) reads as follows:

(d) The committee shall:

(1) examine alternative ways to provide insurance to the seacoast territory of this state, including through a quasi-governmental entity or by providing insurance coverage through a system or program in which insurers in this state provide insurance in the seacoast territory of this state in proportion to the percentage of insurance coverage provided in geographic areas of this state other than the seacoast territory;

(2) study the residual markets for windstorm and hail insurance in other states to determine if those markets operate more efficiently and effectively than the residual market for windstorm and hail insurance coverage in this state;

(3) study windstorm-related building codes and mitigation strategies to determine which codes or strategies are most effective;

(4) recommend:

(A) the appropriate scope of authority and responsibility for the entity to provide insurance to the seacoast territory of this state;

(B) an organizational structure to exercise authority and responsibility over the provision of insurance to the seacoast territory of this state;

(C) a timetable for implementation; and

(D) specific amendments to state laws and rules that are necessary to implement the committee's recommendations under this subdivision; and

(5) estimate funding requirements to implement the recommendations.

Explanation: The addition of the text is necessary to allow the legislative interim study committee established under SECTION 60 of the bill to study a broader range of alternative ways in which windstorm and hail insurance may be provided in the seacoast territory of this state.

**HR 218** was adopted by (Record 138): 127 Yeas, 15 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alvarado; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Castro; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Deshotel; Dukes; Eiland; Eissler; Elkins; Farrar; Fletcher; Flynn; Frullo; Garza; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lyne; Madden; Margo; Marquez; Martinez; McClendon; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pitts; Price; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Thompson; Torres; Truitt; Turner; Villarreal; Vo; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Alonzo; Burnam; Coleman; Davis, Y.; Dutton; Farias; Gallego; Gutierrez; Johnson; Mallory Caraway; Martinez Fischer; Pickett; Reynolds; Veasey; Walle.

Present, not voting — Mr. Speaker(C); Miles.

Absent, Excused — Driver; Hamilton; Lucio; Taylor, V.

Absent — Anchia; Menendez.

### STATEMENT OF VOTE

I was shown voting yes on Record No. 138. I intended to vote no.

Hernandez Luna

### HB 3 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Smithee submitted the following conference committee report on **HB 3**:

Austin, Texas, June 27, 2011



The Honorable David Dewhurst  
President of the Senate

The Honorable Joe Straus  
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 3** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Carona

Estes

Jackson

Williams

Eltife

On the part of the senate

Smithee

L. Taylor

Thompson

Hancock

Scott

On the part of the house

**HB 3**, A bill to be entitled An Act relating to the operation of the Texas Windstorm Insurance Association, to the resolution of certain disputes concerning claims made to that association, and to the issuance of windstorm and hail insurance policies in the private insurance market by certain insurers; providing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 83.002, Insurance Code, is amended by adding Subsection (c) to read as follows:

(c) This chapter also applies to:

(1) a person appointed as a qualified inspector under Section 2210.254 or 2210.255; and

(2) a person acting as a qualified inspector under Section 2210.254 or 2210.255 without being appointed as a qualified inspector under either of those sections.

SECTION 2. Section 541.152, Insurance Code, is amended by amending Subsection (b) and adding Subsection (c) to read as follows:

(b) Except as provided by Subsection (c), on [On] a finding by the trier of fact that the defendant knowingly committed the act complained of, the trier of fact may award an amount not to exceed three times the amount of actual damages.

(c) Subsection (b) does not apply to an action under this subchapter brought against the Texas Windstorm Insurance Association.

SECTION 3. Section 2210.002(b), Insurance Code, is amended to read as follows:

(b) The association is subject to review under Chapter 325, Government Code (Texas Sunset Act), but is not abolished under that chapter. The association shall be reviewed during the period in which state agencies abolished in 2015 [2013] are reviewed. The association shall pay the costs incurred by the Sunset Advisory Commission in performing the review of the association under this subsection. The Sunset Advisory Commission shall determine the costs of the review performed under this subsection, and the association shall pay the amount

of those costs promptly on receipt of a statement from the Sunset Advisory Commission regarding those costs. This subsection expires September 1, 2015 [2013].

SECTION 4. Section 2210.003, Insurance Code, is amended by adding Subdivision (3-b) to read as follows:

(3-b) "Catastrophe year" means a calendar year in which an occurrence or a series of occurrences results in insured losses, regardless of when the insured losses are ultimately paid.

SECTION 5. Subchapter A, Chapter 2210, Insurance Code, is amended by adding Sections 2210.0081, 2210.010, 2210.012, 2210.013, and 2210.014 to read as follows:

Sec. 2210.0081. CERTAIN ACTIONS BROUGHT AGAINST ASSOCIATION BY COMMISSIONER. In an action brought by the commissioner against the association under Chapter 441:

(1) the association's inability to satisfy obligations under Subchapter M related to the issuance of public securities under this chapter constitutes a condition that makes the association's continuation in business hazardous to the public or to the association's policyholders for the purposes of Section 441.052;

(2) the time for the association to comply with the requirements of supervision or for the conservator to complete the conservator's duties, as applicable, is limited to three years from the date the commissioner commences the action against the association; and

(3) unless the commissioner takes further action against the association under Chapter 441, as a condition of release from supervision, the association must demonstrate to the satisfaction of the commissioner that the association is able to satisfy obligations under Subchapter M related to the issuance of public securities under this chapter.

Sec. 2210.010. CERTAIN CONDUCT IN DISPUTE RESOLUTION PROHIBITED. (a) For purposes of this section, "presiding officer" includes a judge, mediator, arbitrator, appraiser, or panel member.

(b) If a person insured under this chapter is assigned to act as presiding officer to preside over or resolve a dispute involving the association and another person insured under this chapter, the presiding officer shall, not later than the seventh day after the date of assignment, give written notice to the association and to each other party to the dispute, or the association's or other party's attorney, that the presiding officer is insured under this chapter.

(c) In a proceeding with respect to which the commissioner has authority to designate the presiding officer, the association or other party that receives notice under Subsection (b) may file with the commissioner a written objection to the assignment of the presiding officer to the dispute. The written objection must contain the factual basis on which the association or other party objects to the assignment.

(d) The commissioner shall assign a different presiding officer to the dispute if, after reviewing the objection filed under Subsection (c), the commissioner determines that the presiding officer originally assigned to the dispute has a direct financial or personal interest in the outcome of the dispute.

(e) The association or another party must file an objection under Subsection (c) not later than the earlier of:

(1) the seventh day after the date the association or other party receives actual notice that the presiding officer is insured under this chapter; or

(2) the seventh day before the date of the first proceeding concerning the dispute.

(f) The commissioner may, on a showing of good cause, extend the deadline to file an objection under Subsection (e).

Sec. 2210.012. STANDARDS OF CONDUCT: BOARD OF DIRECTORS AND EMPLOYEES; REPORT OF CERTAIN FRAUDULENT CONDUCT. (a) A member of the board of directors or an employee of the association may not:

(1) accept or solicit any gift, favor, or service that might reasonably tend to influence the member or employee in the discharge of duties related to the operation or business of the association or that the member or employee knows or should know is being offered with the intent to influence the member's or employee's conduct related to the operation or business of the association;

(2) accept other employment or engage in a business or professional activity that the member or employee might reasonably expect would require or induce the member or employee to disclose confidential information acquired by reason of the member's or employee's position with the association;

(3) accept other employment or compensation that could reasonably be expected to impair the member's or employee's independence of judgment in the performance of the member's or employee's duties related to the operation or business of the association;

(4) make personal investments that could reasonably be expected to create a substantial conflict between the member's or employee's private interest and the interest of the association; or

(5) intentionally or knowingly solicit, accept, or agree to accept any benefit for having exercised the member's or employee's powers related to the operation or business of the association or having performed, in favor of another, the member's or employee's duties related to the operation or business of the association.

(b) An association employee who violates Subsection (a) or a code of conduct established under Section 2210.107(a)(4) is subject to an employment-related sanction, including termination of the employee's employment with the association.

(c) A member of the board of directors or an association employee who violates Subsection (a) is subject to any applicable civil or criminal penalty if the violation also constitutes a violation of another statute or rule.

(d) A board member or employee of the association who reasonably suspects that a fraudulent insurance act has been or is about to be committed by any board member or employee of the association shall, not later than the 30th day after discovering the conduct, report the conduct and identity of the person engaging in the conduct to the department and may report the conduct and the identity of the person engaging in the conduct to another authorized

governmental agency. The department shall forward a report received under this subsection to the authorized governmental agency in accordance with Chapter 701.

Sec. 2210.013. CERTAIN EMPLOYMENT AND CONTRACTS PROHIBITED. A member of the board of directors or an employee of the association may not appoint or employ, or contract with, the following individuals for the provision of goods or services in connection with the operation or business of the association, if the individual to be appointed or employed, or with whom a contract is to be entered into, is to be directly or indirectly compensated from funds of the association:

(1) an individual related to the member or employee within a degree of relationship described by Section 573.002, Government Code; or

(2) an individual related to any member of the board of directors or employee of the association within a degree of relationship described by Section 573.002, Government Code.

Sec. 2210.014. APPLICABILITY OF CERTAIN OTHER LAW. (a) A person may not bring a private action against the association, including a claim against an agent or representative of the association, under Chapter 541 or 542. Notwithstanding any other provision of this code or this chapter, a class action under Subchapter F, Chapter 541, or under Rule 42, Texas Rules of Civil Procedure, may only be brought against the association by the attorney general at the request of the department.

(b) Chapter 542 does not apply to the processing and settlement of claims by the association.

SECTION 6. Section 2210.053, Insurance Code, is amended by amending Subsection (b) and adding Subsection (c) to read as follows:

(b) The department may develop programs to improve the efficient operation of the association, including a program for approving policy forms under Section 2301.010 and a program designed to create incentives for insurers to write windstorm and hail insurance voluntarily to cover property located in a catastrophe area, especially property located on the barrier islands of this state.

(c) The association may not be considered a debtor authorized to file a petition or seek relief in bankruptcy under Title 11, United States Code.

SECTION 7. Section 2210.054(a), Insurance Code, is amended to read as follows:

(a) The association shall file annually with the department and the state auditor's office a statement covering periods designated by the department that summarizes the transactions, conditions, operations, and affairs of the association during the preceding year.

SECTION 8. Section 2210.056(c), Insurance Code, is amended to read as follows:

(c) On dissolution of the association, all assets of the association, other than assets pledged for the repayment of public securities issued under this chapter, revert to this state.

SECTION 9. Subchapter B, Chapter 2210, Insurance Code, is amended by adding Sections 2210.058, 2210.059, and 2210.061 to read as follows:

Sec. 2210.058. AUDIT OF ASSOCIATION. (a) The association is subject to audit by the state auditor and shall pay the costs incurred by the state auditor in performing an audit under this section.

(b) The association shall pay the costs described by Subsection (a) promptly after receipt of a statement from the state auditor's office regarding the amount of those costs.

Sec. 2210.059. CLAIMS PRACTICES AUDIT. (a) The commissioner, in the manner and at the time the commissioner determines to be necessary, shall conduct a random audit of claim files concerning claims the bases of which are damage to insured property caused by a particular storm to:

(1) determine whether the association is adequately and properly documenting claims decisions in each claim file; and

(2) ensure that each claim is being handled appropriately, including being handled in accordance with the terms of the policy under which the claim is filed.

(b) The department shall conduct an audit required under this section as soon as possible to ensure the quality of the process with which the association is handling claims described by Subsection (a).

(c) If, following an audit conducted under this section, the commissioner determines that the association is not adequately and properly documenting claims decisions or that claims described by Subsection (a) are not otherwise being handled appropriately, the commissioner shall:

(1) notify the board of directors of that determination; and

(2) identify the manner in which the association should correct any deficiencies identified by the commissioner and issue an order to that effect.

Sec. 2210.061. CONTRACTORS AND MANAGERIAL EMPLOYEES: COMPENSATION AND BONUSES. The association shall post on the association's Internet website any compensation, monetary or otherwise, and any bonus that, when aggregated, exceed \$100,000 in a calendar year and that are paid or given by the association to:

(1) a vendor or independent contractor with whom the association has a contract; or

(2) an association employee.

SECTION 10. Section 2210.071, Insurance Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) If, in a catastrophe year, an occurrence or series of occurrences in a catastrophe area results in insured losses and operating expenses of the association in excess of premium and other revenue of the association, the excess losses and operating expenses shall be paid as provided by this subchapter.

(c) Losses not paid under Subsection (b) shall be paid from the proceeds from public securities issued in accordance with this subchapter and Subchapter M and, notwithstanding Subsection (a), may be paid from the proceeds of public securities issued under Section 2210.072(a) before an occurrence or series of occurrences that results in insured losses.

SECTION 11. Section 2210.072, Insurance Code, is amended by amending Subsections (a), (b), and (c) and adding Subsections (b-1), (e), and (f) to read as follows:

(a) Losses not paid under Section 2210.071(b) ~~[2210.071]~~ shall be paid as provided by this section from the proceeds from Class 1 public securities authorized to be issued in accordance with Subchapter M before, on, or after the date of any occurrence or series of occurrences that results in insured losses. Public securities issued under this section must be repaid within a period not to exceed 14 ~~[40]~~ years, and may be repaid sooner if the board of directors elects to do so and the commissioner approves.

(b) Public securities described by Subsection (a) that are issued before an occurrence or series of occurrences that results in incurred losses:

(1) may be issued on the request of the board of directors with the approval of the commissioner; and

(2) may not, in the aggregate, exceed \$1 billion at any one time, regardless of the calendar year or years in which the outstanding public securities were issued.

(b-1) Public securities described by Subsection (a):

(1) shall be issued as necessary in a principal amount not to exceed \$1 billion per catastrophe year, in the aggregate, for securities issued during that catastrophe year before the occurrence or series of occurrences that results in incurred losses in that year and securities issued on or after the date of that occurrence or series of occurrences, and regardless of whether for a single occurrence or a series of occurrences; and

(2) subject to the \$1 billion maximum described by Subdivision (1), may be issued, in one or more issuances or tranches, during the calendar year in which the occurrence or series of occurrences occurs or, if the public securities cannot reasonably be issued in that year, during the following calendar year.

(c) ~~If [the losses are paid with]~~ public securities are issued as described by this section, the public securities shall be repaid in the manner prescribed by Subchapter M from association premium revenue.

(e) The proceeds of any outstanding public securities described by Subsection (a) that are issued before an occurrence or series of occurrences shall be depleted before the proceeds of any securities issued after an occurrence or series of occurrences may be used. This subsection does not prohibit the association from issuing securities after an occurrence or series of occurrences before the proceeds of outstanding public securities issued during a previous catastrophe year have been depleted.

(f) If, under Subsection (e), the proceeds of any outstanding public securities issued during a previous catastrophe year must be depleted, those proceeds shall count against the \$1 billion limit on public securities described by this section in the catastrophe year in which the proceeds must be depleted.

SECTION 12. Section 2210.073, Insurance Code, is amended by amending Subsection (b) and adding Subsection (c) to read as follows:

(b) Public securities described by Subsection (a):

(1) may be issued as necessary in a principal amount not to exceed \$1 billion per catastrophe year, in the aggregate, whether for a single occurrence or a series of occurrences; and

(2) subject to the \$1 billion maximum described by Subdivision (1), may be issued, in one or more issuances or tranches, during the calendar year in which the occurrence or series of occurrences occurs or, if the public securities cannot reasonably be issued in that year, during the following calendar year.

(c) If the losses are paid with public securities described by this section, the public securities shall be repaid in the manner prescribed by Subchapter M.

SECTION 13. Section 2210.074, Insurance Code, is amended by amending Subsection (b) and adding Subsection (c) to read as follows:

(b) Public securities described by Subsection (a):

(1) may be issued as necessary in a principal amount not to exceed \$500 million per catastrophe year, in the aggregate, whether for a single occurrence or a series of occurrences; and

(2) subject to the \$500 million maximum described by Subdivision (1), may be issued, in one or more issuances or tranches, during the calendar year in which the occurrence or series of occurrences occurs or, if the public securities cannot reasonably be issued in that year, during the following calendar year.

(c) If the losses are paid with public securities described by this section, the public securities shall be repaid in the manner prescribed by Subchapter M through member assessments as provided by this section. The association shall notify each member of the association of the amount of the member's assessment under this section. The proportion of the losses allocable to each insurer under this section shall be determined in the manner used to determine each insurer's participation in the association for the year under Section 2210.052. A member of the association may not recoup an assessment paid under this subsection through a premium surcharge or tax credit.

SECTION 14. Section 2210.075, Insurance Code, is amended to read as follows:

Sec. 2210.075. REINSURANCE. (a) Before any occurrence or series of occurrences, an insurer may elect to purchase reinsurance to cover an assessment for which the insurer would otherwise be liable under Section 2210.074(c) [2210.074(b)].

(b) An insurer must notify the board of directors, in the manner prescribed by the association whether the insurer will be purchasing reinsurance. If the insurer does not elect to purchase reinsurance under this section, the insurer remains liable for any assessment imposed under Section 2210.074(c) [2210.074(b)].

SECTION 15. Section 2210.102, Insurance Code, is amended by adding Subsection (i) to read as follows:

(i) Notwithstanding Subsection (f), for a vacancy occurring in a position under Subsection (b), the commissioner may appoint, for the lesser of 120 days or until the vacancy is filled, a person who has demonstrated knowledge in insurance principles. This subsection does not apply to a vacancy due to the

expiration of a term occurring under Section 2210.103. This subsection expires December 31, 2012, and any appointment in effect on that date is continued until the expiration of the term of the appointment.

SECTION 16. Section 2210.105, Insurance Code, is amended by amending Subsections (a) and (b) and adding Subsections (b-1), (e), (f), and (g) to read as follows:

(a) Except for an emergency meeting, the association shall:

(1) notify the department not later than the 11th day before the date of a meeting of the board of directors or of the members of the association; and

(2) not later than the seventh day before the date of a meeting of the board of directors, post notice of the meeting on the association's Internet website and the department's Internet website.

(b) Except for a closed meeting authorized by Subchapter D, Chapter 551, Government Code, a meeting of the board of directors or of the members of the association is open to[+]

~~[(1) the commissioner or the commissioner's designated representative;~~  
and

~~[(2)] the public.~~

(b-1) The commissioner or the commissioner's designated representative may attend a meeting of the board of directors or the members of the association, including a closed meeting authorized by Subchapter D, Chapter 551, Government Code, except for those portions of a closed meeting that involve the rendition of legal advice to the board concerning a regulatory matter or that would constitute an ex parte communication with the commissioner.

(e) The association shall:

(1) broadcast live on the association's Internet website all meetings of the board of directors, other than closed meetings; and

(2) maintain on the association's Internet website an archive of meetings of the board of directors.

(f) A recording of a meeting must be maintained in the archive required under Subsection (e) through and including the second anniversary of the meeting.

(g) The presence of the commissioner or the commissioner's designated representative at a closed meeting does not waive or impair any privilege, including attorney-client privilege, that exists in statute or at common law.

SECTION 17. Section 2210.107, Insurance Code, is amended to read as follows:

Sec. 2210.107. PRIMARY BOARD OBJECTIVES; REPORT. (a) The primary objectives of the board of directors are to ensure that the board and the association:

(1) operate [operates] in accordance with this chapter, the plan of operation, and commissioner rules;

(2) comply [complies] with sound insurance principles; [and]

(3) meet [meets] all standards imposed under this chapter;

(4) establish a code of conduct and performance standards for association employees and persons with which the association contracts; and



(5) establish, and adhere to terms of, an annual evaluation of association management necessary to achieve the statutory purpose, board objectives, and any performance or enterprise risk management objectives established by the board.

(b) Every two months, the general manager of the association shall submit to the board a report evaluating the extent to which the association met the objectives described by Subsection (a) in the two-month period immediately preceding the date of the report.

(c) Not later than June 1 of each year, the association shall submit to the commissioner, the legislative oversight board established under Subchapter N, the governor, the lieutenant governor, and the speaker of the house of representatives a report evaluating the extent to which the board met the objectives described by Subsection (a) in the 12-month period immediately preceding the date of the report.

SECTION 18. Subchapter C, Chapter 2210, Insurance Code, is amended by adding Section 2210.108 to read as follows:

Sec. 2210.108. OPEN MEETINGS AND OPEN RECORDS. (a) Except as specifically provided by this chapter or another law, the association is subject to Chapters 551 and 552, Government Code.

(b) A settlement agreement to which the association is a party:

(1) is public information and is not exempted from required disclosure under Chapter 552, Government Code; and

(2) if applicable, must contain the name of any attorney or adjuster representing a claimant or the association in connection with the claim that is the basis of the settlement.

(c) Subsection (b) may not be construed to limit or otherwise restrict the categories of information that are public information under Section 552.022, Government Code.

SECTION 19. Section 2210.152, Insurance Code, is amended by adding Subsection (c) to read as follows:

(c) The plan of operation shall require the association to use the claim settlement guidelines published by the commissioner under Section 2210.578(f) in evaluating the extent to which a loss to insured property is incurred as a result of wind, waves, tidal surges, or rising waters not caused by waves or surges.

SECTION 20. Section 2210.202, Insurance Code, is amended to read as follows:

Sec. 2210.202. APPLICATION FOR COVERAGE. (a) A person who has an insurable interest in insurable property may apply to the association for insurance coverage provided under the plan of operation and an inspection of the property, subject to any rules established by the board of directors and approved by the commissioner. The association shall make insurance available to each applicant in the catastrophe area whose property is insurable property but who, after diligent efforts, is unable to obtain property insurance through the voluntary market, as evidenced by one declination from an insurer authorized to engage in the business of, and writing, property insurance providing windstorm and hail coverage in the first tier coastal counties. For purposes of this section,

"declination" has the meaning assigned by the plan of operation and shall include a refusal to offer coverage for the perils of windstorm and hail and the inability to obtain substantially equivalent insurance coverage for the perils of windstorm and hail. Notwithstanding Section 2210.203(c), evidence of one declination every three calendar years is also required with an application for renewal of an association policy.

(b) A property and casualty agent must submit an application for initial ~~the~~ insurance coverage on behalf of the applicant on forms prescribed by the association. The association shall develop a simplified renewal process that allows for the acceptance of an application for renewal coverage, and payment of premiums, from a property and casualty agent or a person insured under this chapter. An [The] application for initial or renewal coverage must contain:

(1) a statement as to whether the applicant has submitted or will submit the premium in full from personal funds or, if not, to whom a balance is or will be due; and

(2) ~~[— Each application for initial or renewal coverage must also contain]~~ a statement that the agent acting on behalf of the applicant possesses proof of the declination described by Subsection (a) and proof of flood insurance coverage or unavailability of that coverage as described by Section 2210.203(a-1).

SECTION 21. Section 2210.203, Insurance Code, is amended by amending Subsection (a) and adding Subsection (d) to read as follows:

(a) If the association determines that the property for which an application for initial insurance coverage is made is insurable property, the association, on payment of the premium, shall direct the issuance of an insurance policy as provided by the plan of operation.

(d) The commissioner, after receiving a recommendation from the board of directors, shall approve a commission structure for payment of an agent who submits an application for coverage to the association on behalf of a person who has an insurable interest in insurable property. The commission structure adopted by the commissioner must be fair and reasonable, taking into consideration the amount of work performed by an agent in submitting an application to the association and the prevailing commission structure in the private windstorm market.

SECTION 22. Sections 2210.204(d) and (e), Insurance Code, are amended to read as follows:

(d) If an insured requests cancellation of the insurance coverage, the association shall refund the unearned premium, less any minimum retained premium set forth in the plan of operation, payable to the insured and the holder of an unpaid balance. The property and casualty agent who received a commission as the result of the issuance of an association policy providing the canceled coverage ~~[submitted the application]~~ shall refund the agent's commission on any unearned premium in the same manner.

(e) For cancellation of insurance coverage under this section, the minimum retained premium in the plan of operation must be for a period of not less than 90 ~~[180]~~ days, except for events specified in the plan of operation that reflect a significant change in the exposure or the policyholder concerning the insured property, including:

- (1) the purchase of similar coverage in the voluntary market;
- (2) sale of the property to an unrelated party;
- (3) death of the policyholder; or
- (4) total loss of the property.

SECTION 23. Subchapter E, Chapter 2210, Insurance Code, is amended by adding Sections 2210.205 and 2210.210 to read as follows:

Sec. 2210.205. REQUIRED POLICY PROVISIONS: DEADLINE FOR FILING CLAIM; NOTICE CONCERNING RESOLUTION OF CERTAIN DISPUTES. (a) A windstorm and hail insurance policy issued by the association must:

(1) require an insured to file a claim under the policy not later than the first anniversary of the date on which the damage to property that is the basis of the claim occurs; and

(2) contain, in boldface type, a conspicuous notice concerning the resolution of disputes under the policy, including:

(A) the processes and deadlines for appraisal under Section 2210.574 and alternative dispute resolution under Section 2210.575;

(B) the binding effect of appraisal under Section 2210.574; and

(C) the necessity of complying with the requirements of Subchapter L-1 to seek relief, including judicial relief.

(b) The commissioner, on a showing of good cause by a person insured under this chapter, may extend the one-year period described by Subsection (a)(1) for a period not to exceed 180 days.

Sec. 2210.210. COVERAGE OF CERTAIN STRUCTURES PROHIBITED. The association may not issue coverage for a wind turbine regardless of whether the turbine could otherwise be considered insurable property under this chapter.

SECTION 24. Section 2210.251(g), Insurance Code, is amended to read as follows:

(g) The department shall issue a certificate of compliance for each structure that qualifies for coverage. The certificate is evidence of insurability of the structure by the association. The decision whether to issue a certificate of compliance for a structure is wholly within the discretion of the department and is not dependent on the actions of the Texas Board of Professional Engineers or any other regulatory agency.

SECTION 25. Section 2210.254, Insurance Code, is amended by amending Subsection (a) and adding Subsection (e) to read as follows:

(a) For purposes of this chapter, a "qualified inspector" includes:

(1) a person determined by the department to be qualified because of training or experience to perform building inspections;

(2) a licensed professional engineer who is on the roster described by Section 1001.652, Occupations Code, and meets the requirements specified by commissioner rule for appointment to conduct windstorm inspections; and

(3) an inspector who:

(A) is certified by the International Code Council, the Building Officials and Code Administrators International, Inc., the International Conference of Building Officials, or the Southern Building Code Congress International, Inc.;

(B) has certifications as a buildings inspector and coastal construction inspector; and

(C) complies with other requirements specified by commissioner rule.

(e) The department may establish an annual renewal period for persons appointed as qualified inspectors.

SECTION 26. Section 2210.255(a), Insurance Code, is amended to read as follows:

(a) On request of an engineer who is licensed by the Texas Board of Professional Engineers and is on the roster described by Section 1001.652, Occupations Code, the commissioner shall appoint the engineer as an inspector under this subchapter not later than the 10th day after the date the engineer delivers to the commissioner information demonstrating that the engineer is qualified to perform windstorm inspections under this subchapter.

SECTION 27. Subchapter F, Chapter 2210, Insurance Code, is amended by adding Section 2210.2551 to read as follows:

Sec. 2210.2551. ENFORCEMENT AUTHORITY; RULES. (a) The department has exclusive authority over all matters relating to the appointment and oversight of qualified inspectors for purposes of this chapter and to the physical inspection of structures for the purposes of this chapter, including the submission of documents to the department or association regarding the physical inspection of structures.

(b) The commissioner by rule shall establish criteria to ensure that a person seeking appointment as a qualified inspector under this subchapter, including an engineer seeking appointment under Section 2210.255, possesses the knowledge, understanding, and professional competence to perform windstorm inspections under this chapter and to comply with other requirements of this chapter.

(c) Subsection (b) applies only to a determination concerning the appointment of a qualified inspector under this chapter. The exclusive jurisdiction of the department under this section does not apply to the practice of engineering as defined by Section 1001.003, Occupations Code, or to a license issued, qualification required, determination made, order issued, judgment rendered, or other action of a board operating under Chapter 1001, Occupations Code. In the event of conflict, the authority of that board prevails with regard to the practice of engineering.

(d) The department shall report to the Texas Board of Professional Engineers if the department determines that:

(1) after an oversight inspection, the results of a windstorm inspection performed by a qualified inspector who is licensed by that board are based on questionable grounds or were the result of questionable circumstances; or

(2) a qualified inspector on the roster described by Section 1001.652, Occupations Code, failed to submit to the department plans, designs, or calculations of other substantiating information necessary to demonstrate that an inspected structure meets the requirements of this chapter and department rules.

(e) The department shall include in its biennial report to the legislature under Section 32.022 the number of matters reported to the Texas Board of Professional Engineers under this section and the outcome of those matters.

SECTION 28. The heading to Section 2210.256, Insurance Code, is amended to read as follows:

Sec. 2210.256. DISCIPLINARY PROCEEDINGS REGARDING APPOINTED INSPECTORS AND CERTAIN OTHER PERSONS.

SECTION 29. Section 2210.256, Insurance Code, is amended by adding Subsection (a-1) to read as follows:

(a-1) In addition to any other action authorized under this section, the commissioner ex parte may enter an emergency cease and desist order under Chapter 83 against a qualified inspector, or a person acting as a qualified inspector, if:

(1) the commissioner believes that:

(A) the qualified inspector has:

(i) through submitting or failing to submit to the department sealed plans, designs, calculations, or other substantiating information, failed to demonstrate that a structure or a portion of a structure subject to inspection meets the requirements of this chapter and department rules; or

(ii) refused to comply with requirements imposed under this chapter or department rules; or

(B) the person acting as a qualified inspector is acting without appointment as a qualified inspector under Section 2210.254 or 2210.255; and

(2) the commissioner determines that the conduct described by Subdivision (1) is fraudulent or hazardous or creates an immediate danger to the public.

SECTION 30. Section 2210.259, Insurance Code, is amended by adding Subsection (c) to read as follows:

(c) The commissioner by rule may provide for a discount of, or a credit against, a surcharge assessed under Subsection (a) in instances in which a policyholder demonstrates that the noncompliant structure was constructed with at least one structural building component that complies with the building code standards set forth in the plan of operation.

SECTION 31. Subchapter F, Chapter 2210, Insurance Code, is amended by adding Section 2210.260 to read as follows:

Sec. 2210.260. ALTERNATIVE ELIGIBILITY FOR COVERAGE. (a) On and after August 31, 2011, a person who has an insurable interest in a residential structure may obtain insurance coverage through the association for that structure without obtaining a certificate of compliance under Section 2210.251(g) in accordance with this section and rules adopted by the commissioner.

(b) The department may issue an alternative certification for a residential structure if the person who has an insurable interest in the structure demonstrates that at least one qualifying structural building component of the structure has been:

(1) inspected by a department inspector or by a qualified inspector; and

(2) determined to be in compliance with applicable building code standards, as set forth in the plan of operation.

(c) The commissioner shall adopt reasonable and necessary rules to implement this section. The rules adopted under this section must establish which structural building components are considered qualifying structural building components for the purposes of Subsection (b), taking into consideration those items that are most probable to generate losses for the association's policyholders and the cost to upgrade those items.

(d) Except as provided by Sections 2210.251(d), (e), and (f), a person who has an insurable interest in a residential structure that is insured by the association as of August 31, 2012, but for which the person has not obtained a certificate of compliance under Section 2210.251(g), must obtain an alternative certification under this section before the association, on or after August 31, 2013, may renew coverage for the structure.

(e) Each residential structure for which a person obtains an alternative certification under this section must comply with:

(1) the requirements of this chapter, including Section 2210.258; and

(2) the association's underwriting requirements, including maintaining the structure in an insurable condition and paying premiums in the manner required by the association.

(f) The association shall develop and implement an actuarially sound rate, credit, or surcharge that reflects the risks presented by structures with reference to which alternative certifications have been obtained under this section. A rate, credit, or surcharge under this subsection may vary based on the number of qualifying structural building components included in a structure with reference to which an alternative certification is obtained under this section. A surcharge under this subsection must be developed and implemented in an amount that does not exceed the percentage of premium at which a surcharge under Section 2210.259(a) is assessed.

SECTION 32. The heading to Subchapter H, Chapter 2210, Insurance Code, is amended to read as follows:

#### SUBCHAPTER H. RATES; DISCOUNTS AND CREDITS

SECTION 33. Sections 2210.355(b) and (g), Insurance Code, are amended to read as follows:

(b) In adopting rates under this chapter, the following must be considered:

(1) the past and prospective loss experience within and outside this state of hazards for which insurance is made available through the plan of operation, if any;

(2) expenses of operation, including acquisition costs;

(3) a reasonable margin for profit and contingencies;

(4) payment of public security obligations for Class 1 public securities issued under this chapter, including the additional amount of any debt service coverage determined by the association to be required for the issuance of marketable public securities; and

(5) ~~(4)~~ all other relevant factors, within and outside this state.

(g) A commission paid to an agent for a windstorm and hail insurance policy issued by the association must comply with the commission structure approved by the commissioner under Section 2210.203(d) and be reasonable, adequate, not unfairly discriminatory, and nonconfiscatory.

SECTION 34. Subchapter H, Chapter 2210, Insurance Code, is amended by adding Section 2210.363 to read as follows:

Sec. 2210.363. PREMIUM DISCOUNTS; SURCHARGE CREDITS. (a) The association may offer a person insured under this chapter an actuarially justified premium discount on a policy issued by the association, or an actuarially justified credit against a surcharge assessed against the person, other than a surcharge assessed under Subchapter M, if:

(1) the construction, alteration, remodeling, enlargement, or repair of, or an addition to, insurable property exceeds applicable building code standards set forth in the plan of operation; or

(2) the person elects to purchase a binding arbitration endorsement under Section 2210.554.

(b) A premium discount or a credit against a surcharge under Subsection (a)(2) may not exceed 10 percent of the premium for the policy, before the application of the discount.

(c) The commissioner shall adopt rules necessary to implement and enforce this section, including rules defining "actuarially justified" for the purposes of this section.

SECTION 35. Section 2210.452(c), Insurance Code, is amended to read as follows:

(c) At the end of each calendar year or policy year, the association shall use the net gain from operations of the association, including all premium and other revenue of the association in excess of incurred losses, ~~and~~ operating expenses, public security obligations, and public security administrative expenses, to make payments to the trust fund, to procure reinsurance, or to make payments to the trust fund and to procure reinsurance.

SECTION 36. Section 2210.453, Insurance Code, is amended by adding Subsections (c), (d), and (e) to read as follows:

(c) If the association does not purchase reinsurance as authorized by this section, the board, not later than June 1 of each year, shall submit to the commissioner, the legislative oversight board established under Subchapter N, the governor, the lieutenant governor, and the speaker of the house of

representatives a report containing an actuarial plan for paying losses in the event of a catastrophe with estimated damages of \$2.5 billion or more. The report required by this subsection must:

(1) document and denominate the association's resources available to pay claims, including cash or other highly liquid assets, assessments that the association is projected to impose, pre-event and post-event bonding capacity, and private-sector recognized risk-transfer mechanisms, including catastrophe bonds and reinsurance;

(2) include an independent, third-party appraisal of the likelihood of an assessment, the maximum potential size of the assessment, and an estimate of the probability that the assessment would not be adequate to meet the association's needs; and

(3) include an analysis of financing alternatives to assessments that includes the costs of borrowing and the consequences that additional purchase of reinsurance, catastrophe bonds, or other private-sector recognized risk-transfer instruments would have in reducing the size or potential of assessments.

(d) A person who prepares a report required by Subsection (c) may not contract to provide any other service to the association, except for the preparation of similar reports, before the third anniversary of the date the last report prepared by the person under that subsection is submitted.

(e) The report submitted under this section is for informational purposes only and does not bind the association to a particular course of action.

SECTION 37. Subchapter J, Chapter 2210, Insurance Code, is amended by adding Section 2210.455 to read as follows:

Sec. 2210.455. CATASTROPHE PLAN. (a) Not later than June 1 of each year, the board shall submit to the commissioner, the legislative oversight board established under Subchapter N, the governor, the lieutenant governor, and the speaker of the house of representatives a catastrophe plan covering the period beginning on the date the plan is submitted and ending on the following May 31.

(b) The catastrophe plan must:

(1) describe the manner in which the association will, during the period covered by the plan, evaluate losses and process claims after the following windstorms affecting an area of maximum exposure to the association:

(A) a windstorm with a four percent chance of occurring during the period covered by the plan;

(B) a windstorm with a two percent chance of occurring during the period covered by the plan; and

(C) a windstorm with a one percent chance of occurring during the period covered by the plan; and

(2) include, if the association does not purchase reinsurance under Section 2210.453 for the period covered by the plan, an actuarial plan for paying losses in the event of a catastrophe with estimated damages of \$2.5 billion or more.

(c) The catastrophe plan must include a description of how losses under association policies will be paid, and how claims under association policies will be administered and adjusted, during the period covered by the plan.



(d) The catastrophe plan submitted under this section is for informational purposes only and does not bind the association to a particular course of action.

SECTION 38. The heading to Subchapter L, Chapter 2210, Insurance Code, is amended to read as follows:

**SUBCHAPTER L. CERTAIN APPEALS AND OTHER ACTIONS**

SECTION 39. Sections 2210.551(a) and (b), Insurance Code, are amended to read as follows:

(a) This section:

(1) does not apply to:

(A) a person who is required to resolve a dispute under Subchapter L-1; or

(B) a person insured under this chapter who has elected to purchase a binding arbitration endorsement offered by the association under Section 2210.554; and

(2) applies only to:

(A) ~~(+)~~ a person not described by Subdivision (1) who is insured under this chapter or an authorized representative of the person; or

(B) ~~(+)~~ an affected insurer.

(b) A person or entity described by Subsection (a)(2) ~~(+)~~ who is aggrieved by an act, ruling, or decision of the association may appeal to the commissioner not later than the 30th day after the date of that act, ruling, or decision.

SECTION 40. Subchapter L, Chapter 2210, Insurance Code, is amended by adding Section 2210.554 to read as follows:

Sec. 2210.554. VOLUNTARY ARBITRATION OF CERTAIN COVERAGE AND CLAIM DISPUTES. (a) A person insured under this chapter may elect to purchase a binding arbitration endorsement in a form prescribed by the commissioner. A person who elects to purchase an endorsement under this section must arbitrate a dispute involving an act, ruling, or decision of the association relating to the payment of, the amount of, or the denial of the claim.

(b) An arbitration under this section shall be conducted in the manner and under rules and deadlines prescribed by the commissioner by rule.

SECTION 41. Chapter 2210, Insurance Code, is amended by adding Subchapter L-1 to read as follows:

**SUBCHAPTER L-1. CLAIMS: SETTLEMENT AND DISPUTE RESOLUTION**

Sec. 2210.571. DEFINITIONS. In this subchapter:

(1) "Association policy" means a windstorm and hail insurance policy issued by the association.

(2) "Claim" means a request for payment under an association policy. The term also includes any other claim against the association, or an agent or representative of the association, relating to an insured loss, under any theory or cause of action of any kind, regardless of the theory under which the claim is asserted, the cause of action brought, or the type of damages sought.

(3) "Claimant" means a person who makes a claim.

Sec. 2210.572. EXCLUSIVE REMEDIES AND LIMITATION ON AWARD. (a) This subchapter provides the exclusive remedies for a claim against the association, including an agent or representative of the association.

(b) Subject to Section 2210.576, the association may not be held liable for any amount other than covered losses payable under the terms of the association policy.

(c) The association, and an agent or representative of the association, may not be held liable for damages under Chapter 17, Business & Commerce Code, or, except as otherwise specifically provided by this chapter, under any provision of any law providing for additional damages, punitive damages, or a penalty.

Sec. 2210.573. FILING OF CLAIM; CLAIM PROCESSING. (a) Subject to Section 2210.205(b), an insured must file a claim under an association policy not later than the first anniversary of the date on which the damage to property that is the basis of the claim occurs.

(b) The claimant may submit written materials, comments, documents, records, and other information to the association relating to the claim. If the claimant fails to submit information in the claimant's possession that is necessary for the association to determine whether to accept or reject a claim, the association may, not later than the 30th day after the date the claim is filed, request in writing the necessary information from the claimant.

(c) The association shall, on request, provide a claimant reasonable access to all information relevant to the determination of the association concerning the claim. The claimant may copy the information at the claimant's own cost or may request the association to provide a copy of all or part of the information to the claimant. The association may charge a claimant the actual cost incurred by the association in providing a copy of information under this section, excluding any amount for labor involved in making any information or copy of information available to a claimant.

(d) Unless the applicable 60-day period described by this subsection is extended by the commissioner under Section 2210.581, not later than the later of the 60th day after the date the association receives a claim or the 60th day after the date the association receives information requested under Subsection (b), the association shall provide the claimant, in writing, notification that:

(1) the association has accepted coverage for the claim in full;

(2) the association has accepted coverage for the claim in part and has denied coverage for the claim in part; or

(3) the association has denied coverage for the claim in full.

(e) In a notice described by Subsection (d)(1), the association must inform the claimant of the amount of loss the association will pay and of the time limit to request appraisal under Section 2210.574.

(f) In a notice described by Subsection (d)(2) or (3), the association must inform the claimant of, as applicable:

(1) the portion of the loss for which the association accepts coverage and the amount of loss the association will pay;

(2) the portion of the loss for which the association denies coverage and a detailed summary of the manner in which the association determined not to accept coverage for that portion of the claim; and

(3) the time limit to:

(A) request appraisal under Section 2210.574 of the portion of the loss for which the association accepts coverage; and

(B) provide notice of intent to bring an action as required by Section 2210.575.

(g) In addition to the notice required under Subsection (d)(2) or (3), the association shall provide a claimant with a form on which the claimant may provide the association notice of intent to bring an action as required by Section 2210.575.

Sec. 2210.5731. PAYMENT OF CLAIM. (a) Except as provided by Subsection (b), if the association notifies a claimant under Section 2210.573(d)(1) or (2) that the association has accepted coverage for a claim in full or has accepted coverage for a claim in part, the association shall pay the accepted claim or accepted portion of the claim not later than the 10th day after the date notice is made.

(b) If payment of the accepted claim or accepted portion of the claim is conditioned on the performance of an act by the claimant, the association shall pay the claim not later than the 10th day after the date the act is performed.

Sec. 2210.574. DISPUTES CONCERNING AMOUNT OF ACCEPTED COVERAGE. (a) If the association accepts coverage for a claim in full and a claimant disputes only the amount of loss the association will pay for the claim, or if the association accepts coverage for a claim in part and a claimant disputes the amount of loss the association will pay for the accepted portion of the claim, the claimant may request from the association a detailed summary of the manner in which the association determined the amount of loss the association will pay.

(b) If a claimant disputes the amount of loss the association will pay for a claim or a portion of a claim, the claimant, not later than the 60th day after the date the claimant receives the notice described by Section 2210.573(d)(1) or (2), may demand appraisal in accordance with the terms of the association policy.

(c) If a claimant, on a showing of good cause and not later than the 15th day after the expiration of the 60-day period described by Subsection (b), requests in writing that the 60-day period be extended, the association may grant an additional 30-day period in which the claimant may demand appraisal.

(d) If a claimant demands appraisal under this section:

(1) the appraisal must be conducted as provided by the association policy; and

(2) the claimant and the association are responsible in equal shares for paying any costs incurred or charged in connection with the appraisal, including a fee charged under Subsection (e).

(e) If a claimant demands appraisal under this section and the appraiser retained by the claimant and the appraiser retained by the association are able to agree on an appraisal umpire to participate in the resolution of the dispute, the appraisal umpire is the umpire chosen by the two appraisers. If the appraiser retained by the claimant and the appraiser retained by the association are unable to agree on an appraisal umpire to participate in the resolution of the dispute, the commissioner shall select an appraisal umpire from a roster of qualified umpires maintained by the department. The department may:

(1) require appraisers to register with the department as a condition of being placed on the roster of umpires; and

(2) charge a reasonable registration fee to defray the cost incurred by the department in maintaining the roster and the commissioner in selecting an appraisal umpire under this subsection.

(f) Except as provided by Subsection (g), the appraisal decision is binding on the claimant and the association as to the amount of loss the association will pay for a fully accepted claim or the accepted portion of a partially accepted claim and is not appealable or otherwise reviewable. A claimant that does not demand appraisal before the expiration of the periods described by Subsections (b) and (c) waives the claimant's right to contest the association's determination of the amount of loss the association will pay with reference to a fully accepted claim or the accepted portion of a partially accepted claim.

(g) A claimant or the association may, not later than the second anniversary of the date of an appraisal decision, file an action in a district court in the county in which the loss that is the subject of the appraisal occurred to vacate the appraisal decision and begin a new appraisal process if:

(1) the appraisal decision was obtained by corruption, fraud, or other undue means;

(2) the rights of the claimant or the association were prejudiced by:

(A) evident partiality by an appraisal umpire;

(B) corruption in an appraiser or appraisal umpire; or

(C) misconduct or wilful misbehavior of an appraiser or appraisal umpire; or

(3) an appraiser or appraisal umpire:

(A) exceeded the appraiser's or appraisal umpire's powers;

(B) refused to postpone the appraisal after a showing of sufficient cause for the postponement;

(C) refused to consider evidence material to the claim; or

(D) conducted the appraisal in a manner that substantially prejudiced the rights of the claimant or the association.

(h) Except as provided by Subsection (g), a claimant may not bring an action against the association with reference to a claim for which the association has accepted coverage in full.

Sec. 2210.575. DISPUTES CONCERNING DENIED COVERAGE. (a) If the association denies coverage for a claim in part or in full and the claimant disputes that determination, the claimant, not later than the expiration of the limitations period described by Section 2210.577(a), but after the date the claimant receives the notice described by Section 2210.573(d)(2) or (3), must provide the association with notice that the claimant intends to bring an action against the association concerning the partial or full denial of the claim.

(b) If a claimant provides notice of intent to bring an action under Subsection (a), the association may require the claimant, as a prerequisite to filing the action against the association, to submit the dispute to alternative dispute resolution by mediation or moderated settlement conference, as provided by Chapter 154, Civil Practice and Remedies Code. A claimant that does not provide

notice of intent to bring an action before the expiration of the period described by Subsection (a) waives the claimant's right to contest the association's partial or full denial of coverage and is barred from bringing an action against the association concerning the denial of coverage.

(c) The association must request alternative dispute resolution of a dispute described by Subsection (b) not later than the 60th day after the date the association receives from the claimant notice of intent to bring an action.

(d) Alternative dispute resolution under this section must be completed not later than the 60th day after the date a request for alternative dispute resolution is made under Subsection (c). The 60-day period described by this subsection may be extended by the commissioner by rule in accordance with Section 2210.581 or by the association and a claimant by mutual consent.

(e) If the claimant is not satisfied after completion of alternative dispute resolution, or if alternative dispute resolution is not completed before the expiration of the 60-day period described by Subsection (d) or any extension under that subsection, the claimant may bring an action against the association in a district court in the county in which the loss that is the subject of the coverage denial occurred. An action brought under this subsection shall be presided over by a judge appointed by the judicial panel on multidistrict litigation designated under Section 74.161, Government Code. A judge appointed under this section must be an active judge, as defined by Section 74.041, Government Code, who is a resident of the county in which the loss that is the basis of the disputed denied coverage occurred or of a first tier coastal county or a second tier coastal county adjacent to the county in which that loss occurred.

(f) If a claimant brings an action against the association concerning a partial or full denial of coverage, the court shall abate the action until the notice of intent to bring an action has been provided and, if requested by the association, the dispute has been submitted to alternative dispute resolution, in accordance with this section.

(g) A moderated settlement conference under this section may be conducted by a panel consisting of one or more impartial third parties.

(h) If the association requests mediation under this section, the claimant and the association are responsible in equal shares for paying any costs incurred or charged in connection with the mediation.

(i) If the association requests mediation under this section, and the claimant and the association are able to agree on a mediator, the mediator is the mediator agreed to by the claimant and the association. If the claimant and the association are unable to agree on a mediator, the commissioner shall select a mediator from a roster of qualified mediators maintained by the department. The department may:

(1) require mediators to register with the department as a condition of being placed on the roster; and

(2) charge a reasonable registration fee to defray the cost incurred by the department in maintaining the roster and the commissioner in selecting a mediator under this section.

(j) The commissioner shall establish rules to implement this section, including provisions for expediting alternative dispute resolution, facilitating the ability of a claimant to appear with or without counsel, establishing qualifications necessary for mediators to be placed on the roster maintained by the department under Subsection (i), and providing that formal rules of evidence shall not apply to the proceedings.

Sec. 2210.576. ISSUES BROUGHT TO SUIT; LIMITATIONS ON RECOVERY. (a) The only issues a claimant may raise in an action brought against the association under Section 2210.575 are:

(1) whether the association's denial of coverage was proper; and

(2) the amount of the damages described by Subsection (b) to which the claimant is entitled, if any.

(b) Except as provided by Subsections (c) and (d), a claimant that brings an action against the association under Section 2210.575 may recover only:

(1) the covered loss payable under the terms of the association policy less, if applicable, the amount of loss already paid by the association for any portion of a covered loss for which the association accepted coverage;

(2) prejudgment interest from the first day after the date specified in Section 2210.5731 by which the association was or would have been required to pay an accepted claim or the accepted portion of a claim, at the prejudgment interest rate provided in Subchapter B, Chapter 304, Finance Code; and

(3) court costs and reasonable and necessary attorney's fees.

(c) Nothing in this chapter, including Subsection (b), may be construed to limit the consequential damages, or the amount of consequential damages, that a claimant may recover under common law in an action against the association.

(d) A claimant that brings an action against the association under Section 2210.575 may, in addition to the covered loss described by Subsection (b)(1) and any consequential damages recovered by the claimant under common law, recover damages in an amount not to exceed the aggregated amount of the covered loss described by Subsection (b)(1) and the consequential damages recovered under common law if the claimant proves by clear and convincing evidence that the association mishandled the claimant's claim to the claimant's detriment by intentionally:

(1) failing to meet the deadlines or timelines established under this subchapter without good cause, including the applicable deadline established under Section 2210.5731 for payment of an accepted claim or the accepted portion of a claim;

(2) disregarding applicable guidelines published by the commissioner under Section 2210.578(f);

(3) failing to provide the notice required under Section 2210.573(d);

(4) rejecting a claim without conducting a reasonable investigation with respect to the claim; or

(5) denying coverage for a claim in part or in full if the association's liability has become reasonably clear as a result of the association's investigation with respect to the portion of the claim that was denied.

(c) For purposes of Subsection (d), "intentionally" means actual awareness of the facts surrounding the act or practice listed in Subsection (d)(1), (2), (3), (4), or (5), coupled with the specific intent that the claimant suffer harm or damages as a result of the act or practice. Specific intent may be inferred from objective manifestations that the association acted intentionally or from facts that show that the association acted with flagrant disregard of the duty to avoid the acts or practices listed in Subsection (d)(1), (2), (3), (4), or (5).

Sec. 2210.577. LIMITATIONS PERIOD. (a) Notwithstanding any other law, a claimant who brings an action against the association under Section 2210.575 must bring the action not later than the second anniversary of the date on which the person receives a notice described by Section 2210.573(d)(2) or (3).

(b) This section is a statute of repose and controls over any other applicable limitations period.

Sec. 2210.578. EXPERT PANEL. (a) The commissioner shall appoint a panel of experts to advise the association concerning the extent to which a loss to insurable property was incurred as a result of wind, waves, tidal surges, or rising waters not caused by waves or surges. The panel shall consist of a number of experts to be decided by the commissioner. The commissioner shall appoint one member of the panel to serve as the presiding officer of the panel.

(b) Members of the panel must have professional expertise in, and be knowledgeable concerning, the geography and meteorology of the Texas seacoast territory, as well as the scientific basis for determining the extent to which damage to property is caused by wind, waves, tidal surges, or rising waters not caused by waves or surges.

(c) The panel shall meet at the request of the commissioner or the call of the presiding officer of the panel.

(d) The panel shall investigate, collect, and evaluate the information necessary to provide recommendations under Subsection (e). The cost and expense incurred by the panel associated with the work of the panel under this section shall be paid or reimbursed by the association.

(e) At the request of the commissioner, the panel shall recommend to the commissioner methods or models for determining the extent to which a loss to insurable property may be or was incurred as a result of wind, waves, tidal surges, or rising waters not caused by waves or surges for geographic areas or regions designated by the commissioner.

(f) After consideration of the recommendations made by the panel under Subsection (e), the commissioner shall publish guidelines that the association will use to settle claims.

(g) A member of the panel is not individually liable for an act or failure to act in the performance of the official duties in connection with the individual's work on the panel.

(h) In any review of a claim under this subchapter, and in any action brought against the association under Section 2210.575, the guidelines published by the commissioner under Subsection (f) govern the claim and are presumed to be accurate and correct, unless clear and convincing evidence supports a deviation from the guidelines.

Sec. 2210.579. CONSTRUCTION WITH OTHER LAW. (a) To the extent of any conflict between a provision of this subchapter and any other law, the provision of this subchapter prevails.

(b) Notwithstanding any other law, the association may not bring an action against a claimant, for declaratory or other relief, before the 180th day after the date an appraisal under Section 2210.574, or alternate dispute resolution under Section 2210.575, is completed.

Sec. 2210.580. RULEMAKING. (a) The commissioner shall adopt rules regarding the provisions of this subchapter, including rules concerning:

(1) qualifications and selection of appraisers for the appraisal procedure, mediators for the mediation process, and members of the expert panel;

(2) procedures and deadlines for the payment and handling of claims by the association as well as the procedures and deadlines for a review of a claim by the association;

(3) notice of expert panel meetings and the transparency of deliberations of the panel; and

(4) any other matters regarding the handling of claims that are not inconsistent with this subchapter.

(b) All rules adopted by the commissioner under this section shall promote the fairness of the process, protect the rights of aggrieved policyholders, and ensure that policyholders may participate in the claims review process without the necessity of engaging legal counsel.

Sec. 2210.581. COMMISSIONER EXTENSION OF DEADLINES. (a) Subject to Subsection (b), the commissioner, on a showing of good cause, may by rule extend any deadline established under this subchapter.

(b) With reference to claims filed during a particular catastrophe year, the extension of deadlines under Subsection (a) may not exceed 120 days in the aggregate.

(c) For the purposes of Subsection (a), "good cause" includes military deployment.

Sec. 2210.582. OMBUDSMAN PROGRAM. (a) The department shall establish an ombudsman program to provide information and educational programs to assist persons insured under this chapter with the claim processes under this subchapter.

(b) Not later than March 1 of each year, the department shall prepare and submit to the commissioner a budget for the ombudsman program, including approval of all expenditures incurred in administering and operating the program. The commissioner shall adopt or modify and adopt the budget not later than April 1 of the year in which the budget is submitted.

(c) Not later than May 1 of each year, the association shall transfer to the ombudsman program money in an amount equal to the amount of the budget adopted under Subsection (b). The ombudsman program, not later than April 30 of each year, shall return to the association any unexpended funds that the program received from the association in the previous year.



(d) The department shall, not later than 60 days after the date of a catastrophic event, prepare and submit an amended budget to the commissioner for approval and report to the commissioner the approximate number of claimants eligible for ombudsman services. The commissioner shall adopt rules as necessary to implement an amended budget submitted under this section, including rules regarding the transfer of additional money from the association to the program.

(e) The ombudsman program may provide to persons insured under this chapter information and educational programs through:

- (1) informational materials;
- (2) toll-free telephone numbers;
- (3) public meetings;
- (4) outreach centers;
- (5) the Internet; and
- (6) other reasonable means.

(f) The ombudsman program is administratively attached to the department. The department shall provide the staff, services, and facilities necessary for the ombudsman program to operate, including:

- (1) administrative assistance and service, including budget planning and purchasing;
- (2) personnel services;
- (3) office space; and
- (4) computer equipment and support.

(g) The ombudsman program shall prepare and make available to each person insured under this chapter information describing the functions of the ombudsman program.

(h) The association, in the manner prescribed by the commissioner by rule, shall notify each person insured under this chapter concerning the operation of the ombudsman program.

(i) The commissioner may adopt rules as necessary to implement this section.

SECTION 42. Section 2210.602, Insurance Code, is amended by amending Subdivisions (1) and (2) and adding Subdivisions (1-a), (1-b), (5-a), (6-b), and (6-c) to read as follows:

(1) "Authority" means the Texas Public Finance Authority.

(1-a) "Board" means the board of directors of the Texas Public Finance Authority.

(1-b) "Catastrophic event" means an occurrence or a series of occurrences that occurs in a catastrophe area during a calendar year and that results in insured losses and operating expenses of the association in excess of premium and other revenue of the association.

(2) "Class 1 public securities" means public securities authorized to be issued ~~[on or after an occurrence or series of occurrences]~~ by Section 2210.072, including a commercial paper program authorized before the occurrence of a catastrophic event ~~[so long as no tranche of commercial paper is issued under the program until after the catastrophic event]~~.

(5-a) "Gross premium" means association premium, less premium returned to policyholders for canceled or reduced policies.

(6-b) "Member assessment trust fund" means the dedicated trust fund established by the board and held by the Texas Treasury Safekeeping Trust Company into which member assessments collected under Sections 2210.613 and 2210.6135 are deposited.

(6-c) "Premium surcharge trust fund" means the dedicated trust fund established by the board and held by the Texas Treasury Safekeeping Trust Company into which premium surcharges collected under Section 2210.613 are deposited.

SECTION 43. Section 2210.604, Insurance Code, is amended by amending Subsections (a) and (c) and adding Subsection (a-1) to read as follows:

(a) At the request of the association and with the approval of the commissioner, the Texas Public Finance Authority shall issue Class 1, Class 2, or Class 3 public securities. The association shall submit to the commissioner a cost-benefit analysis of various financing methods and funding structures when requesting the issuance of public securities under this subsection.

(a-1) The association and the commissioner must approve each tranche of commercial paper issued under a commercial paper program established under this chapter.

(c) The principal amount determined by the association under Subsection (b) may be increased to include an amount sufficient to:

- (1) pay the costs related to issuance of the public securities;
- (2) provide a public security reserve fund; ~~and~~
- (3) capitalize interest for the period determined necessary by the association, not to exceed two years; and

(4) provide the amount of debt service coverage for public securities determined by the association, in consultation with the authority, to be required for the issuance of marketable public securities.

SECTION 44. Section 2210.605(c), Insurance Code, is amended to read as follows:

(c) Public securities issued under Section 2210.6136 ~~[this chapter]~~ are eligible obligations under Section 404.027, Government Code.

SECTION 45. Section 2210.608, Insurance Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) Public security proceeds, including investment income, shall be held in trust for the exclusive use and benefit of the association. The association may use the proceeds to:

- (1) pay incurred claims and operating expenses of the association;
- (2) purchase reinsurance for the association;
- (3) pay the costs of issuing the public securities, and public security administrative expenses, if any;
- (4) provide a public security reserve; ~~and~~
- (5) pay capitalized interest and principal on the public securities for the period determined necessary by the association;

(6) pay private financial agreements entered into by the association as temporary sources of payment of losses and operating expenses of the association; and

(7) reimburse the association for any cost described by Subdivisions (1)-(6) paid by the association before issuance of the public securities.

(c) Notwithstanding Subsection (a)(2), the proceeds from public securities issued under Section 2210.072 before an occurrence or series of occurrences that results in incurred losses, including investment income, may not be used to purchase reinsurance for the association.

SECTION 46. Section 2210.609, Insurance Code, is amended to read as follows:

Sec. 2210.609. REPAYMENT OF ASSOCIATION'S PUBLIC SECURITY OBLIGATIONS. (a) The board and the association shall enter into an agreement under which the association shall provide for the payment of all public security obligations from available funds collected by the association and deposited into the public security obligation revenue fund. If the association determines that it is unable to pay the public security obligations and public security administrative expenses, if any, with available funds, the association shall pay those obligations and expenses in accordance with Sections 2210.612, 2210.613, ~~and~~ 2210.6135, and 2210.6136 as applicable. Class 1, Class 2, or Class 3 public securities may be issued on a parity or subordinate lien basis with other Class 1, Class 2, or Class 3 public securities, respectively.

(b) If any public securities issued under this chapter are outstanding, the authority ~~The board~~ shall notify the association of the amount of the public security obligations and the estimated amount of public security administrative expenses, if any, each calendar year in a period sufficient, as determined by the association, to permit the association to determine the availability of funds, assess members of the association under Sections 2210.613 and 2210.6135, and assess a premium surcharge if necessary.

(c) The association shall deposit all revenue collected under Section ~~Sections~~ 2210.612 ~~, 2210.613, and 2210.6135~~ in the public security obligation revenue fund, all revenue collected under Section 2210.613(b) in the premium surcharge trust fund, and all revenue collected under Sections 2210.613(a) and 2210.6135 in the member assessment trust fund. Money deposited in a ~~the~~ fund may be invested as permitted by general law. Money in a ~~the~~ fund required to be used to pay public security obligations and public security administrative expenses, if any, shall be transferred to the appropriate funds in the manner and at the time specified in the proceedings authorizing the public securities to ensure timely payment of obligations and expenses. This may include the board establishing funds and accounts with the comptroller that the board determines are necessary to administer and repay the public security obligations. If the association has not transferred amounts sufficient to pay the public security obligations to the board's designated interest and sinking fund in a timely manner, the board may direct the Texas Treasury Safekeeping Trust Company to

transfer from the public security obligation revenue fund, the premium surcharge trust fund, or the member assessment trust fund to the appropriate account the amount necessary to pay the public security obligation.

(d) The association shall provide for the payment of the public security obligations and the public security administrative expenses by irrevocably pledging revenues received from premiums, member assessments, premium surcharges, and amounts on deposit in the public security obligation revenue fund, the premium surcharge trust fund, and the member assessment trust fund, together with any public security reserve fund, as provided in the proceedings authorizing the public securities and related credit agreements.

(e) An amount owed by the board under a credit agreement shall be payable from and secured by a pledge of revenues received by the association or amounts from the public security obligation trust fund, the premium surcharge trust fund, and the member assessment trust fund to the extent provided in the proceedings authorizing the credit agreement.

SECTION 47. Section 2210.610(a), Insurance Code, is amended to read as follows:

(a) Revenues received from the premium surcharges under Section 2210.613 and member assessments under Sections 2210.613 and 2210.6135 may be applied only as provided by this subchapter.

SECTION 48. Section 2210.611, Insurance Code, is amended to read as follows:

Sec. 2210.611. EXCESS REVENUE COLLECTIONS AND INVESTMENT EARNINGS. Revenue collected in any calendar year from a premium surcharge under Section 2210.613 and member assessments under Sections 2210.613 and 2210.6135 that exceeds the amount of the public security obligations and public security administrative expenses payable in that calendar year and interest earned on the public security obligation fund may, in the discretion of the association, be:

(1) used to pay public security obligations payable in the subsequent calendar year, offsetting the amount of the premium surcharge and member assessments, as applicable, that would otherwise be required to be levied for the year under this subchapter;

(2) used to redeem or purchase outstanding public securities; or

(3) deposited in the catastrophe reserve trust fund.

SECTION 49. Section 2210.612, Insurance Code, is amended to read as follows:

Sec. 2210.612. PAYMENT OF CLASS 1 PUBLIC SECURITIES. (a) The association shall pay Class 1 public securities issued under Section 2210.072 from its net premium and other revenue.

(b) The association may enter financing arrangements as described by Section 2210.072(d) as necessary to obtain public securities issued under Section 2210.072 ~~[that section]~~. Nothing in this subsection shall prevent the authorization and creation of one or more programs for the issuance of commercial paper before the date of an occurrence or series of occurrences that

results in insured losses under Section 2210.072(a) ~~[so long as no tranche of commercial paper is issued under a commercial paper program until after such an occurrence].~~

SECTION 50. Sections 2210.613(b), (c), and (d), Insurance Code, are amended to read as follows:

(b) Seventy percent of the cost of the public securities shall be paid by a ~~[nonrefundable]~~ premium surcharge collected under this section in an amount set by the commissioner. On approval by the commissioner, each insurer, the association, and the Texas FAIR Plan Association shall assess, as provided by this section, a premium surcharge to each policyholder of a policy that is in effect on or after the 180th day after the date the commissioner issues notice of the approval of the public securities ~~[its policyholders as provided by this section]~~. The premium surcharge must be set in an amount sufficient to pay, for the duration of the issued public securities, all debt service not already covered by available funds or member assessments and all related expenses on the public securities.

(c) The premium surcharge under Subsection (b) shall be assessed on all policyholders of policies that cover ~~[who reside or have operations in, or whose]~~ insured property that is located in a catastrophe area, including automobiles principally garaged in a catastrophe area. The premium surcharge shall be assessed on ~~[for]~~ each Texas windstorm and hail insurance policy and each property and casualty insurance policy, including an automobile insurance policy, issued for automobiles and other property located in the catastrophe area. A premium surcharge under Subsection (b) applies to:

(1) all policies written under the following lines of insurance:

(A) fire and allied lines;

(B) farm and ranch owners;

(C) residential property insurance;

(D) private passenger automobile liability and physical damage insurance; and

(E) commercial automobile liability and physical damage insurance; and

(2) the property insurance portion of a commercial multiple peril insurance policy ~~[that provide coverage on any premises, locations, operations, or property located in the area described by this subsection for all property and casualty lines of insurance, other than federal flood insurance, workers' compensation insurance, accident and health insurance, and medical malpractice insurance].~~

(d) A premium surcharge under Subsection (b) is a separate ~~[nonrefundable]~~ charge in addition to the premiums collected and is not subject to premium tax or commissions. Failure by a policyholder to pay the surcharge constitutes failure to pay premium for purposes of policy cancellation.

SECTION 51. Section 2210.6135(a), Insurance Code, is amended to read as follows:

(a) The association shall pay Class 3 public securities issued under Section 2210.074 as provided by this section through member assessments. The association, for the payment of the losses, shall assess the members of the association a principal ~~an~~ amount not to exceed \$500 million per catastrophe year ~~[for the payment of the losses]~~. The association shall notify each member of the association of the amount of the member's assessment under this section.

SECTION 52. Subchapter M, Chapter 2210, Insurance Code, is amended by adding Section 2210.6136 to read as follows:

Sec. 2210.6136. ALTERNATIVE SOURCES OF PAYMENT. (a) Notwithstanding any other provision of this chapter and subject to Subsection (b), on a finding by the commissioner that all or any portion of the total principal amount of Class 1 public securities authorized to be issued under Section 2210.072 cannot be issued, the commissioner, by rule or order, may cause the issuance of Class 2 public securities in a principal amount not to exceed the principal amount described by Section 2210.073(b).

(b) The commissioner shall order the repayment of the cost of Class 2 public securities issued in the manner described by Subsection (a) as follows:

(1) in the manner described by Section 2210.612(a), in an amount equal to the lesser of:

(A) \$500 million; or

(B) that portion of the total principal amount of Class 1 public securities authorized to be issued under Section 2210.072 that cannot be issued, plus any costs associated with that portion; and

(2) after payment under Subdivision (1), in the manner described by Sections 2210.613(a) and (b), in an amount equal to the difference between the principal amount of public securities issued under Subsection (a) and the amount repaid in the manner described by Subdivision (1), plus any costs associated with that amount.

(c) If Class 2 public securities are issued in the manner authorized by this section, Class 3 public securities may be issued only after Class 2 public securities have been issued in the maximum amount authorized under Section 2210.073.

SECTION 53. Section 2210.616, Insurance Code, is amended to read as follows:

Sec. 2210.616. STATE NOT TO IMPAIR PUBLIC SECURITY OBLIGATIONS. (a) The state pledges for the benefit and protection of financing parties, the board, and the association that the state will not take or permit any action that would:

(1) impair the collection of member assessments and premium surcharges or the deposit of those funds into the member assessment trust fund or premium surcharge trust fund;

(2) reduce, alter, or impair the member assessments or premium surcharges to be imposed, collected, and remitted to financing parties until the principal, interest, and premium, and any other charges incurred and contracts to be performed in connection with the related public securities, have been paid and performed in full; or

(3) ~~If public securities under this subchapter are outstanding, the state may not:~~

~~[(1) take action to limit or restrict the rights of the association to fulfill its responsibility to pay public security obligations; or~~

~~[(2)] in any way impair the rights and remedies of the public security owners until the public securities are fully discharged.~~

(b) A party issuing public securities under this subchapter may include the pledge described by Subsection (a) in any documentation relating to those securities.

SECTION 54. Subchapter M, Chapter 2210, Insurance Code, is amended by adding Section 2210.6165 to read as follows:

Sec. 2210.6165. PROPERTY RIGHTS. If public securities issued under this subchapter are outstanding, the rights and interests of the association, a successor to the association, any member of the association, or any member of the Texas FAIR Plan Association, including the right to impose, collect, and receive a premium surcharge or a member assessment authorized under this subchapter, are only contract rights until those revenues are first pledged for the repayment of the association's public security obligations as provided by Section 2210.609.

SECTION 55. Subchapter A, Chapter 2301, Insurance Code, is amended by adding Section 2301.010 to read as follows:

Sec. 2301.010. CONTRACTUAL LIMITATIONS PERIOD AND CLAIM FILING PERIOD IN CERTAIN PROPERTY INSURANCE FORMS. (a) This section applies only to an insurer that issues windstorm and hail insurance in the catastrophe area, as defined by Section 2210.003.

(b) Notwithstanding Section 16.070, Civil Practice and Remedies Code, and for the purpose described by Section 2210.053(b), a policy form or printed endorsement form for residential or commercial property insurance that is filed by an insurer described by Subsection (a) or adopted by the department under this subchapter for use by an insurer described by Subsection (a) may provide for a contractual limitations period for filing suit on a first-party claim under the policy. The contractual limitations period may not end before the earlier of:

(1) two years from the date the insurer accepts or rejects the claim; or

(2) three years from the date of the loss that is the subject of the claim.

(c) A policy or endorsement described by Subsection (b) may also contain a provision requiring that a claim be filed with the insurer not later than one year after the date of the loss that is the subject of the claim. A provision under this subsection must include a provision allowing the filing of claims after the first anniversary of the date of the loss for good cause shown by the person filing the claim.

(d) A contractual provision contrary to Subsection (b) or (c) is void. If a contractual provision is voided under this subsection, the voiding of the provision does not affect the validity of other provisions of a contract that may be given effect without the voided provision to the extent those provisions are severable.

(e) The department, to encourage the authorized insurers to write windstorm and hail insurance in the catastrophe area, as defined by Section 2210.003, and in other areas of the state, may approve policy or contractual provisions other than those described by Subsections (b) and (c) that are consistent with sound underwriting and insurance principles, provided that the policy or contractual provisions meet the requirements of Sections 2301.007(a) and 2301.053.

(f) An insurer using a policy form or endorsement form in this state that includes a provision described by Subsection (b) or (c) shall, at the time the policy or endorsement is issued or renewed, disclose in writing to an applicant or insured the contractual limitations or claims filing period, as applicable, in the policy or endorsement.

SECTION 56. Chapter 1001, Occupations Code, is amended by adding Subchapter N to read as follows:

SUBCHAPTER N. WINDSTORM-RELATED DESIGN SERVICES

Sec. 1001.651. DEFINITIONS. In this subchapter:

- (1) "Association" means the Texas Windstorm Insurance Association.
- (2) "Plan of operation" means the plan of operation of the association.
- (3) "Windstorm certification standards" means the building specifications and building codes applicable to insurable property under Subchapter F, Chapter 2210, Insurance Code, and the plan of operation, and applicable rules of the Texas Department of Insurance.

Sec. 1001.652. QUALIFICATIONS; ROSTER. (a) The board shall:

(1) review the plan of operation and the windstorm certification standards; and

(2) in consultation with the Texas Department of Insurance, adopt rules establishing criteria for determining whether an engineer possesses the knowledge, understanding, and professional competence to be qualified to provide engineering design services related to compliance with applicable windstorm certification standards under Subchapter F, Chapter 2210, Insurance Code.

(b) The board shall prepare and publish a roster of engineers who satisfy the criteria adopted under Subsection (a)(2) and shall make the roster available to the public without cost in an online computer database format.

Sec. 1001.653. COMPLIANCE WITH BUILDING CODES; ENFORCEMENT. (a) The board, in consultation with the Texas Department of Insurance, shall adopt rules requiring an engineer who is providing engineering design services to comply with windstorm certification standards.

(b) The board may inspect a structure to ensure an engineer's compliance with Subsection (a).

(c) If the board determines that an engineer's engineering design services related to windstorm certification standards do not comply with the standards, the board may:

- (1) issue an emergency order prohibiting the engineer from entering into a contract to provide design services related to compliance with applicable windstorm certification standards for a period not to exceed 30 days;



(2) remove the engineer from the roster described by Section 1001.652(b); or

(3) determine that a structure was not constructed, altered, remodeled, enlarged, repaired, or added to according to the applicable windstorm certification standards and report that finding to the association and the Texas Department of Insurance.

(d) The board shall give the engineer notice of any action under this section.

(e) A violation of this subchapter, including a violation of the windstorm inspection standards, is grounds for disciplinary action under Section 1001.452.

SECTION 57. Sections 2210.551(e) and 2210.552, Insurance Code, are repealed.

SECTION 58. Section 2301.010, Insurance Code, as added by this Act, applies only to an insurance policy that is delivered, issued for delivery, or renewed on or after January 1, 2012. A policy delivered, issued for delivery, or renewed before January 1, 2012, is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 59. Not later than December 1, 2011, the Texas Board of Professional Engineers shall adopt rules to implement Subchapter N, Chapter 1001, Occupations Code, as added by this Act.

SECTION 60. (a) A legislative interim study committee shall conduct a study of alternative ways to provide insurance to the seacoast territory of this state, including through a quasi-governmental entity.

(b) The committee is composed of 12 members appointed as follows:

(1) four members of the senate appointed by the lieutenant governor, two of whom represent one or more first tier coastal counties and two of whom do not represent a first tier coastal county;

(2) four members of the house of representatives appointed by the speaker of the house of representatives, two of whom represent one or more first tier coastal counties and two of whom do not represent a first tier coastal county; and

(3) four public members with a background in actuarial science, law, business, or insurance, as follows:

(A) two members who do not reside in a first tier coastal county, appointed by the governor;

(B) one member who resides in a first tier coastal county, appointed by the lieutenant governor; and

(C) one member who resides in a first tier coastal county, appointed by the speaker of the house of representatives.

(c) The speaker of the house of representatives and the lieutenant governor shall jointly designate a chair or, alternatively, designate two co-chairs, from among the committee membership, one of whom represents or resides in a first tier coastal county.

(d) The committee shall:

(1) examine alternative ways to provide insurance to the seacoast territory of this state, including through a quasi-governmental entity or by providing insurance coverage through a system or program in which insurers in this state provide insurance in the seacoast territory of this state in proportion to the percentage of insurance coverage provided in geographic areas of this state other than the seacoast territory;

(2) study the residual markets for windstorm and hail insurance in other states to determine if those markets operate more efficiently and effectively than the residual market for windstorm and hail insurance coverage in this state;

(3) study windstorm-related building codes and mitigation strategies to determine which codes or strategies are most effective;

(4) recommend:

(A) the appropriate scope of authority and responsibility for the entity to provide insurance to the seacoast territory of this state;

(B) an organizational structure to exercise authority and responsibility over the provision of insurance to the seacoast territory of this state;

(C) a timetable for implementation; and

(D) specific amendments to state laws and rules that are necessary to implement the committee's recommendations under this subdivision; and

(5) estimate funding requirements to implement the recommendations.

(e) The committee may adopt rules necessary to conduct business under and implement this section.

(f) Except as specifically provided by this section, the committee may operate in the same manner as a joint committee of the 82nd Legislature.

(g) Not later than December 1, 2012, the committee shall report to the governor and the legislature the recommendations made under this section.

(h) This section expires June 1, 2013.

SECTION 61. (a) The Texas Department of Insurance and the Texas Windstorm Insurance Association shall jointly study whether the association's using a single adjuster program would improve the effectiveness and efficiency with which the association receives, processes, settles, and pays claims filed under insurance policies issued by the association under Chapter 2210, Insurance Code.

(b) The commissioner of insurance shall study the feasibility of the association writing policies directly and the impact the association writing policies directly would have on rates for policies issued by the association. The commissioner shall submit the finding of the study conducted under this subsection to the board of directors of the association.

(c) The results of the studies conducted under Subsections (a) and (b) of this section shall be included in the 2012 biennial report submitted to the legislature by the association under Section 2210.0025, Insurance Code.

SECTION 62. (a) Except as otherwise specifically provided by this section, this Act applies only to a Texas windstorm and hail insurance policy that is delivered, issued for delivery, or renewed by the Texas Windstorm Insurance Association on or after the 60th day after the effective date of this Act. A Texas windstorm and hail insurance policy that is delivered, issued for delivery, or

renewed by the Texas Windstorm Insurance Association before the 60th day after the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

(b) The deadline to file a claim under a Texas windstorm and hail insurance policy delivered, issued for delivery, or renewed before the effective date of this Act by the Texas Windstorm Insurance Association is governed by the law in effect on the date the policy under which the claim is filed was delivered, issued for delivery, or renewed, and that law is continued in effect for that purpose.

(c) If a person insured by the Texas Windstorm Insurance Association disputes the amount the association will pay for a partially or fully accepted claim filed by the person, Section 2210.574, Insurance Code, as added by this Act, applies only if the Texas windstorm and hail insurance policy under which the claim is filed is delivered, issued for delivery, or renewed on or after the 60th day after the effective date of this Act.

(d) If a person insured by the Texas Windstorm Insurance Association disputes the amount the association will pay for a partially or fully accepted claim filed by the person and the Texas windstorm and hail insurance policy under which the claim is filed is delivered, issued for delivery, or renewed before the 60th day after the effective date of this Act:

(1) Section 2210.574, Insurance Code, as added by this Act, does not apply to the resolution of the dispute; and

(2) notwithstanding Section 2210.574, Insurance Code, as added by this Act, or any other provision of this Act, the claimant must attempt to resolve the dispute through the appraisal process contained in the association policy under which the claim is filed before an action may be brought against the Texas Windstorm Insurance Association concerning the claim.

(e) The person insured by the Texas Windstorm Insurance Association and the association may agree that an appraisal conducted under Subsection (d)(2) of this section is binding on the parties.

(f) An action brought against the association concerning a claim described by Subsection (d) of this section shall be abated until the appraisal process under Subsection (d)(2) of this section is completed.

(g) Notwithstanding Sections 2210.575 and 2210.576, Insurance Code, as added by this Act, Subsection (b) of this section, or any other provision of this Act, Sections 2210.576(b)(1)-(3), (c), (d), and (e), Insurance Code, apply to any cause of action that accrues against the Texas Windstorm Insurance Association on or after the effective date of this Act and the basis of which is a claim filed under a Texas windstorm and hail insurance policy that is delivered, issued for delivery, or renewed by the association, regardless of the date on which the policy was delivered, issued for delivery, or renewed.

(h) Section 2210.605(c), Insurance Code, as amended by this Act, and Section 2210.6136, Insurance Code, as added by this Act, apply to the issuance and repayment of public securities issued by the Texas Windstorm Insurance Association under Chapter 2210, Insurance Code, in response to an occurrence or series of occurrences that takes place on or after July 1, 2011, so long as the

public securities are issued on or after the effective date of this Act. The issuance and repayment of public securities issued by the association under Chapter 2210, Insurance Code, before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 63. The Texas Windstorm Insurance Association shall amend the association's plan of operation to conform to the changes in law made by this Act not later than the 60th day after the effective date of this Act.

SECTION 64. If any provision of this Act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 65. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect on the 91st day after the last day of the legislative session.

(Hunter in the chair)

Representative Smithee moved to adopt the conference committee report on **HB 3**.

The motion to adopt the conference committee report on **HB 3** prevailed by (Record 139): 98 Yeas, 44 Nays, 3 Present, not voting.

Yeas — Aliseda; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Eissler; Elkins; Fletcher; Flynn; Frullo; Garza; Geren; Gonzales, L.; Gonzalez; Gooden; Guillen; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Hopson; Howard, C.; Huberty; Hughes; Isaac; Jackson; Keffer; King, P.; King, S.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lyne; Madden; Margo; Marquez; Miller, D.; Miller, S.; Morrison; Murphy; Nash; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pitts; Price; Riddle; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Torres; Truitt; White; Woolley; Workman; Zedler; Zerwas.

Nays — Allen; Alonzo; Alvarado; Burnam; Castro; Coleman; Davis, Y.; Deshotel; Dukes; Dutton; Eiland; Farias; Farrar; Gallego; Giddings; Gonzales, V.; Gutierrez; Hernandez Luna; Hochberg; Howard, D.; Johnson; King, T.; Lozano; Mallory Caraway; Martinez; Martinez Fischer; McClendon; Menendez; Muñoz; Naishtat; Oliveira; Pickett; Quintanilla; Raymond; Reynolds; Ritter; Rodriguez; Thompson; Turner; Veasey; Villarreal; Vo; Walle; Weber.

Present, not voting — Mr. Speaker; Hunter(C); Miles.

Absent, Excused — Driver; Hamilton; Lucio; Taylor, V.

Absent — Anchia.

**HCR 15 - ADOPTED****(by Coleman, Hochberg, Castro, Martinez, and Walle)**

Representative Coleman moved to suspend all necessary rules to take up and consider at this time **HCR 15**.

The motion prevailed.

The following resolution was laid before the house:

**HCR 15**, In memory of Pete A. Gallego, Jr., of Alpine.

**HCR 15** was unanimously adopted by a rising vote.

On motion of Representative Hilderbran, the names of all the members of the house were added to **HCR 15** as signers thereof.

**HR 233 - ADOPTED****(by Miles)**

Representative Miles moved to suspend all necessary rules to take up and consider at this time **HR 233**.

The motion prevailed.

The following resolution was laid before the house:

**HR 233**, In memory of Yolanda Evette Williams.

**HR 233** was unanimously adopted by a rising vote.

**HR 258 - ADOPTED****(by Naishtat)**

Representative Naishtat moved to suspend all necessary rules to take up and consider at this time **HR 258**.

The motion prevailed.

The following resolution was laid before the house:

**HR 258**, Recognizing the month of April 2011 as Genocide Awareness and Prevention Month.

**HR 258** was adopted.

**MESSAGE FROM THE SENATE**

A message from the senate was received at this time (see the addendum to the daily journal, Messages from the Senate, Message No. 1).

**BILLS AND JOINT RESOLUTIONS ON FIRST READING  
AND REFERRAL TO COMMITTEES**

Bills and joint resolutions were at this time laid before the house, read first time, and referred to committees. (See the addendum to the daily journal, Referred to Committees, List No. 1.)

### COMMITTEE GRANTED PERMISSION TO MEET

Representative Gallego requested permission for the Committee on Criminal Jurisprudence to meet while the house is in session, at 5 p.m. today, in 3W.15, to consider **SB 29**.

Permission to meet was granted by (Record 140): 97 Yeas, 32 Nays, 3 Present, not voting.

Yeas — Aliseda; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Branch; Brown; Burkett; Button; Callegari; Carter; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Eissler; Elkins; Fletcher; Flynn; Frullo; Gallego; Garza; Geren; Gonzales, L.; Gooden; Hancock; Hardcastle; Harless; Hartnett; Hilderbran; Hopson; Howard, C.; Huberty; Hughes; Isaac; Jackson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lyne; Madden; Margo; Martinez; Menendez; Miller, D.; Miller, S.; Morrison; Murphy; Nash; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Price; Raymond; Riddle; Ritter; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Taylor, L.; Torres; Truitt; Weber; White; Workman; Zedler; Zerwas.

Nays — Allen; Alonzo; Alvarado; Burnam; Coleman; Davis, Y.; Deshotel; Dukes; Dutton; Farias; Farrar; Gonzales, V.; Gonzalez; Gutierrez; Hernandez Luna; Hochberg; Howard, D.; Mallory Caraway; McClendon; Miles; Muñoz; Naishtat; Oliveira; Quintanilla; Reynolds; Thompson; Turner; Veasey; Villarreal; Vo; Walle; Woolley.

Present, not voting — Mr. Speaker; Giddings; Hunter(C).

Absent, Excused — Driver; Hamilton; Lucio; Taylor, V.

Absent — Anchia; Bohac; Bonnen; Cain; Castro; Eiland; Guillen; Harper-Brown; Johnson; Marquez; Martinez Fischer; Rodriguez; Schwertner; Strama.

### STATEMENTS OF VOTE

When Record No. 140 was taken, I was temporarily out of the house chamber. I would have voted yes.

Bonnen

When Record No. 140 was taken, I was in the house but away from my desk. I would have voted yes.

Eiland

When Record No. 140 was taken, I was temporarily out of the house chamber. I would have voted yes.

Schwertner

I was shown voting no on Record No. 140. I intended to vote yes.

Woolley

**COMMITTEE MEETING ANNOUNCEMENT**

The following committee meeting was announced:

Criminal Jurisprudence, 5 p.m. today, 3W.15, for a formal meeting, to consider **SB 29**.

(Speaker in the chair)

**HR 232 - ADOPTED**

(by Pitts)

The following privileged resolution was laid before the house:

**HR 232**

BE IT RESOLVED by the House of Representatives of the State of Texas, 82nd Legislature, 1st Called Session, 2011, That House Rule 13, Section 9(a), be suspended in part as provided by House Rule 13, Section 9(f), to enable the conference committee appointed to resolve the differences on **SB 1** (certain state fiscal matters; providing penalties) to consider and take action on the following matters:

(1) House Rule 13, Section 9(a)(1), is suspended to permit the committee to change text which is not in disagreement in proposed Section 4.02 of the bill, in added Section 111.0041(c), Tax Code, to read as follows:

Contemporaneous records and supporting documentation appropriate to the tax or fee may include, for example, invoices, vouchers, checks, shipping records, contracts, or other equivalent records, such as electronically stored images of such documents, reflecting legal relationships and taxes collected and paid.

Explanation: The change is necessary to provide clear examples of what types of records or documentation appropriate to a tax or fee may be used to verify certain claims.

(2) House Rule 13, Section 9(a)(2), is suspended to permit the committee to omit text which is not in disagreement, Article 5 of the senate engrossment of **SB 1** and the corresponding article of the bill as the bill was amended by the house of representatives, relating to unclaimed property, that reads:

**ARTICLE 5. UNCLAIMED PROPERTY**

SECTION 5.01. Subsection (a), Section 72.101, Property Code, is amended to read as follows:

(a) Except as provided by this section and Sections 72.1015, 72.1016, 72.1017, and 72.102, personal property is presumed abandoned if, for longer than three years:

(1) the existence and location of the owner of the property is unknown to the holder of the property; and

(2) according to the knowledge and records of the holder of the property, a claim to the property has not been asserted or an act of ownership of the property has not been exercised.

SECTION 5.02. Subchapter B, Chapter 72, Property Code, is amended by adding Section 72.1017 to read as follows:

Sec. 72.1017. UTILITY DEPOSITS. (a) In this section:

(1) "Utility" has the meaning assigned by Section 183.001, Utilities Code.

(2) "Utility deposit" is a refundable money deposit a utility requires a user of the utility service to pay as a condition of initiating the service.

(b) Notwithstanding Section 73.102, a utility deposit is presumed abandoned on the latest of:

(1) the first anniversary of the date a refund check for the utility deposit was payable to the owner of the deposit;

(2) the first anniversary of the date the utility last received documented communication from the owner of the utility deposit; or

(3) the first anniversary of the date the utility issued a refund check for the deposit payable to the owner of the deposit if, according to the knowledge and records of the utility or payor of the check, during that period, a claim to the check has not been asserted or an act of ownership by the payee has not been exercised.

SECTION 5.03. Subsection (c), Section 72.102, Property Code, is amended to read as follows:

(c) A money order to which Subsection (a) applies is presumed to be abandoned on the latest of:

(1) the third ~~[seventh]~~ anniversary of the date on which the money order was issued;

(2) the third ~~[seventh]~~ anniversary of the date on which the issuer of the money order last received from the owner of the money order communication concerning the money order; or

(3) the third ~~[seventh]~~ anniversary of the date of the last writing, on file with the issuer, that indicates the owner's interest in the money order.

SECTION 5.04. Section 72.103, Property Code, is amended to read as follows:

Sec. 72.103. PRESERVATION OF PROPERTY. Notwithstanding any other provision of this title except a provision of this section or Section 72.1016 relating to a money order or a stored value card, a holder of abandoned property shall preserve the property and may not at any time, by any procedure, including a deduction for service, maintenance, or other charge, transfer or convert to the profits or assets of the holder or otherwise reduce the value of the property. For purposes of this section, value is determined as of the date of the last transaction or contact concerning the property, except that in the case of a money order, value is determined as of the date the property is presumed abandoned under Section 72.102(c). If a holder imposes service, maintenance, or other charges on a money order prior to the time of presumed abandonment, such charges may not exceed the amount of \$1 ~~[50 cents]~~ per month for each month the money order remains uncashed prior to the month in which the money order is presumed abandoned.

SECTION 5.05. Section 73.101, Property Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) An account or safe deposit box is presumed abandoned if:

(1) except as provided by Subsection (c), the account or safe deposit box has been inactive for at least five years as determined under Subsection (b);



(2) the location of the depositor of the account or owner of the safe deposit box is unknown to the depository; and

(3) the amount of the account or the contents of the box have not been delivered to the comptroller in accordance with Chapter 74.

(c) If the account is a checking or savings account or is a matured certificate of deposit, the account is presumed abandoned if the account has been inactive for at least three years as determined under Subsection (b)(1).

SECTION 5.06. Subsection (a), Section 74.101, Property Code, is amended to read as follows:

(a) Each holder who on March 1 ~~[June 30]~~ holds property that is presumed abandoned under Chapter 72, 73, or 75 of this code or under Chapter 154, Finance Code, shall file a report of that property on or before the following July ~~[November]~~ 1. The comptroller may require the report to be in a particular format, including a format that can be read by a computer.

SECTION 5.07. Subsection (a), Section 74.1011, Property Code, is amended to read as follows:

(a) Except as provided by Subsection (b), a holder who on March 1 ~~[June 30]~~ holds property valued at more than \$250 that is presumed abandoned under Chapter 72, 73, or 75 of this code or Chapter 154, Finance Code, shall, on or before the following May ~~[August]~~ 1, mail to the last known address of the known owner written notice stating that:

(1) the holder is holding the property; and

(2) the holder may be required to deliver the property to the comptroller on or before July ~~[November]~~ 1 if the property is not claimed.

SECTION 5.08. Subsections (a) and (c), Section 74.301, Property Code, are amended to read as follows:

(a) Except as provided by Subsection (c), each holder who on March 1 ~~[June 30]~~ holds property that is presumed abandoned under Chapter 72, 73, or 75 shall deliver the property to the comptroller on or before the following July ~~[November]~~ 1 accompanied by the report required to be filed under Section 74.101.

(c) If the property subject to delivery under Subsection (a) is the contents of a safe deposit box, the comptroller may instruct a holder to deliver the property on a specified date before July ~~[November]~~ 1 of the following year.

SECTION 5.09. Subsection (e), Section 74.601, Property Code, is amended to read as follows:

(e) The comptroller on receipt or from time to time may ~~[from time to time]~~ sell securities, including stocks, bonds, and mutual funds, received under this chapter or any other statute requiring the delivery of unclaimed property to the comptroller and use the proceeds to buy, exchange, invest, or reinvest in marketable securities. When making or selling the investments, the comptroller shall exercise the judgment and care of a prudent person.

SECTION 5.10. Section 74.708, Property Code, is amended to read as follows:

Sec. 74.708. PROPERTY HELD IN TRUST. A holder who on March 1 ~~[June 30]~~ holds property presumed abandoned under Chapters 72-75 holds the property in trust for the benefit of the state on behalf of the missing owner and is liable to the state for the full value of the property, plus any accrued interest and penalty. A holder is not required by this section to segregate or establish trust accounts for the property provided the property is timely delivered to the comptroller in accordance with Section 74.301.

SECTION 5.11. (a) Except as provided by Subsection (b) or (c) of this section, this article takes effect on the 91st day after the last day of the legislative session.

(b) Except as provided by Subsection (c) of this section, Subsection (a), Section 74.101, Subsection (a), Section 74.1011, Subsections (a) and (c), Section 74.301, and Section 74.708, Property Code, as amended by this article, take effect January 1, 2013.

(c) If **HB 257**, Acts of the 82nd Legislature, Regular Session, 2011, becomes law, this article has no effect.

SECTION 5.12. A charge imposed on a money order under Section 72.103, Property Code, by a holder before the effective date of this article is governed by the law applicable to the charge immediately before the effective date of this article, and the holder may retain the charge.

Explanation: The article is omitted as unnecessary because its provisions were largely duplicative of those of **HB 257**, Acts of the 82nd Legislature, Regular Session, 2011, as effective September 1, 2011, and January 1, 2013.

(3) House Rule 13, Section 9(a)(3), is suspended to permit the committee to add text on a matter which is not in disagreement in proposed Sections 5.01 and 5.02 of the bill to read as follows:

SECTION 5.01. Subsection (b), Section 72.1017, Property Code, as effective September 1, 2011, is amended to read as follows:

(b) Notwithstanding Section 73.102, a utility deposit is presumed abandoned on the latest of:

(1) the first anniversary of ~~[18 months after]~~ the date a refund check for the utility deposit was payable to the owner of the deposit;

(2) the first anniversary of ~~[18 months after]~~ the date the utility last received documented communication from the owner of the utility deposit; or

(3) the first anniversary of ~~[18 months after]~~ the date the utility issued a refund check for the deposit payable to the owner of the deposit if, according to the knowledge and records of the utility or payor of the check, during that period, a claim to the check has not been asserted or an act of ownership by the payee has not been exercised.

SECTION 5.02. This article takes effect on the 91st day after the last day of the legislative session.

Explanation: The change is necessary to provide for a presumption of abandonment of certain utility deposits after one year.

(4) House Rule 13, Section 9(a)(4), is suspended to permit the committee in proposed Section 7.01 of the bill to add text on a matter not included in either the house or the senate version of the bill to read as follows:

SECTION 7.01. Section 51.008, Government Code, as effective September 1, 2011, is amended by amending Subsection (c) and adding Subsection (d) to read as follows:

(c) The Office of Court Administration of the Texas Judicial System may collect the fees recommended by the process server review board and approved by the supreme court. Fees collected under this section shall be sent to the comptroller for deposit to the credit of the general revenue fund ~~[and may be appropriated only to the office for purposes of this section].~~

(d) Fees collected under this section may be appropriated to the Office of Court Administration of the Texas Judicial System for the support of regulatory programs for process servers, guardians, and court reporters.

Explanation: The changes are necessary to clarify the purposes for which certain deposited fees may be appropriated.

(5) House Rule 13, Section 9(a)(2), is suspended to permit the committee to omit text which is not in disagreement, Section 8.01 of the senate engrossment of **SB 1** and the corresponding section of the bill as the bill was amended by the house of representatives, relating to petroleum industry regulation, that reads:

SECTION 8.01. Section 26.3574, Water Code, is amended by amending Subsection (b) and adding Subsection (b-1) to read as follows:

(b) A fee is imposed on the delivery of a petroleum product on withdrawal from bulk of that product as provided by this subsection. Each operator of a bulk facility on withdrawal from bulk of a petroleum product shall collect from the person who orders the withdrawal a fee in an amount determined as follows:

(1) not more than \$3.125 ~~[\$3.75]~~ for each delivery into a cargo tank having a capacity of less than 2,500 gallons ~~[for the state fiscal year beginning September 1, 2007, through the state fiscal year ending August 31, 2011];~~

(2) not more than \$6.25 ~~[\$7.50]~~ for each delivery into a cargo tank having a capacity of 2,500 gallons or more but less than 5,000 gallons ~~[for the state fiscal year beginning September 1, 2007, through the state fiscal year ending August 31, 2011];~~

(3) not more than \$9.37 ~~[\$11.75]~~ for each delivery into a cargo tank having a capacity of 5,000 gallons or more but less than 8,000 gallons ~~[for the state fiscal year beginning September 1, 2007, through the state fiscal year ending August 31, 2011];~~

(4) not more than \$12.50 ~~[\$15.00]~~ for each delivery into a cargo tank having a capacity of 8,000 gallons or more but less than 10,000 gallons ~~[for the state fiscal year beginning September 1, 2007, through the state fiscal year ending August 31, 2011]; and~~

(5) not more than \$6.25 ~~[\$7.50]~~ for each increment of 5,000 gallons or any part thereof delivered into a cargo tank having a capacity of 10,000 gallons or more ~~[for the state fiscal year beginning September 1, 2007, through the state fiscal year ending August 31, 2011].~~

(b-1) The commission by rule shall set the amount of the fee in Subsection (b) in an amount not to exceed the amount necessary to cover the agency's costs of administering this subchapter, as indicated by the amount appropriated by the legislature from the petroleum storage tank remediation account for that purpose.

Explanation: The text is omitted as unnecessary because it largely duplicates provisions of Section 4.19, **HB 2694**, Acts of the 82nd Legislature, Regular Session, 2011, as effective September 1, 2011.

(6) House Rule 13, Section 9(a)(1), is suspended to permit the committee to alter text which is not in disagreement in proposed Section 15.05 of the bill to read as follows:

SECTION 15.05. Subsection (d), Section 19.002, Election Code, as effective September 1, 2011, is amended to read as follows:

(d) The secretary of state ~~[comptroller]~~ may not make a payment under Subsection (b) ~~[issue a warrant]~~ if on June 1 of the year in which the payment ~~[warrant]~~ is to be made ~~[issued the most recent notice received by the comptroller from the secretary of state under Section 18.065 indicates that]~~ the registrar is not in substantial compliance with Section 15.083, 16.032, or 18.065 or with rules implementing the registration service program.

Explanation: The change is necessary to conform the bill to changes in law made by **HB 2817**, Acts of the 82nd Legislature, Regular Session, 2011, as effective September 1, 2011.

(7) House Rule 13, Section 9(a)(2), is suspended to permit the committee to omit text which is not in disagreement, text of Article 24 of the senate engrossment of **SB 1** and the corresponding article of the bill as the bill was amended by the house of representatives, relating to leasing certain state facilities, that reads:

#### ARTICLE 24. FISCAL MATTERS REGARDING LEASING CERTAIN STATE FACILITIES

SECTION 24.01. The heading to Section 2165.2035, Government Code, is amended to read as follows:

Sec. 2165.2035. LEASE OF SPACE IN STATE-OWNED PARKING LOTS AND GARAGES; USE AFTER HOURS.

SECTION 24.02. Subchapter E, Chapter 2165, Government Code, is amended by adding Sections 2165.204, 2165.2045, and 2165.2046 to read as follows:

Sec. 2165.204. LEASE OF SPACE IN STATE-OWNED PARKING LOTS AND GARAGES; EXCESS INDIVIDUAL PARKING SPACES. (a) The commission may lease to a private individual an individual parking space in a state-owned parking lot or garage located in the city of Austin that the commission determines is not needed to accommodate the regular parking requirements of state employees who work near the lot or garage and visitors to nearby state government offices.

(b) Money received from a lease under this section shall be deposited to the credit of the general revenue fund.

(c) In leasing a parking space under Subsection (a), the commission must ensure that the lease does not restrict uses for parking lots and garages developed under Section 2165.2035, including special event parking related to institutions of higher education.

(d) In leasing or renewing a lease for a parking space under Subsection (a), the commission shall give preference to an individual who is currently leasing or previously leased the parking space.

Sec. 2165.2045. LEASE OF SPACE IN STATE-OWNED PARKING LOTS AND GARAGES; EXCESS BLOCKS OF PARKING SPACE. (a) The commission may lease to an institution of higher education or a local government all or a significant block of a state-owned parking lot or garage located in the city of Austin that the commission determines is not needed to accommodate the regular parking requirements of state employees who work near the lot or garage and visitors to nearby state government offices.

(b) Money received from a lease under this section shall be deposited to the credit of the general revenue fund.

(c) In leasing all or a block of a state-owned parking lot or garage under Subsection (a), the commission must ensure that the lease does not restrict uses for parking lots and garages developed under Section 2165.2035, including special event parking related to institutions of higher education.

(d) In leasing or renewing a lease for all or a block of a state-owned parking lot or garage under Subsection (a), the commission shall give preference to an entity that is currently leasing or previously leased the lot or garage or a block of the lot or garage.

Sec. 2165.2046. REPORTS ON PARKING PROGRAMS. On or before October 1 of each even-numbered year, the commission shall submit a report to the Legislative Budget Board describing the effectiveness of parking programs developed by the commission under this subchapter. The report must, at a minimum, include:

- (1) the yearly revenue generated by the programs;
- (2) the yearly administrative and enforcement costs of each program;
- (3) yearly usage statistics for each program; and
- (4) initiatives and suggestions by the commission to:
  - (A) modify administration of the programs; and
  - (B) increase revenue generated by the programs.

Explanation: The text is omitted as unnecessary because it largely duplicates or is in conflict with provisions of **SB 1068**, Acts of the 82nd Legislature, Regular Session, 2011, as effective June 17, 2011.

(8) House Rule 13, Section 9(a)(2), is suspended to permit the committee to omit text which is not in disagreement, Sections 26.02, 26.03, 26.06, and 26.08 of the senate engrossment of **SB 1** and the corresponding sections of the bill as the bill was amended by the house of representatives, relating to the review by the attorney general of invoices related to legal services provided to state agencies, that reads:

SECTION 26.02. The heading to Section 402.0212, Government Code, is amended to read as follows:

Sec. 402.0212. PROVISION OF LEGAL SERVICES—OUTSIDE COUNSEL; FEES.

SECTION 26.03. Section 402.0212, Government Code, is amended by amending Subsections (b) and (c) and adding Subsections (d), (e), and (f) to read as follows:

(b) An invoice submitted to a state agency under a contract for legal services as described by Subsection (a) must be reviewed by the attorney general to determine whether the invoice is eligible for payment.

(c) An attorney or law firm must pay an administrative fee to the attorney general for the review described in Subsection (b) when entering into a contract to provide legal services to a state agency.

(d) For purposes of this section, the functions of a hearing examiner, administrative law judge, or other quasi-judicial officer are not considered legal services.

(e) ~~[(e)]~~ This section shall not apply to the Texas Turnpike Authority division of the Texas Department of Transportation.

(f) The attorney general may adopt rules as necessary to implement and administer this section.

SECTION 26.06. The fee prescribed by Section 402.0212, Government Code, as amended by this article, applies only to invoices for legal services submitted to the office of the attorney general for review on or after the effective date of this article.

SECTION 26.08. The changes in law made by this article apply only to a contract for legal services between a state agency and a private attorney or law firm entered into on or after the effective date of this article. A contract for legal services between a state agency and a private attorney or law firm entered into before the effective date of this article is governed by the law in effect at the time the contract was entered into, and the former law is continued in effect for that purpose.

Explanation: The text is omitted as unnecessary because it largely duplicates or is in conflict with provisions of **SB 367**, Acts of the 82nd Legislature, Regular Session, 2011, as effective June 17, 2011.

(9) House Rule 13, Section 9(a)(2), is suspended to permit the committee to omit text which is not in disagreement, Sections 26.04 and 26.07 of the senate engrossment of **SB 1** and the corresponding sections of the bill as the bill was amended by the house of representatives, relating to the review by the attorney general of invoices related to legal services provided to state agencies, that reads:

SECTION 26.04. Section 371.051, Transportation Code, is amended to read as follows:

Sec. 371.051. ATTORNEY GENERAL REVIEW AND EXAMINATION FEE. (a) A toll project entity may not enter into a comprehensive development agreement unless the attorney general reviews the proposed agreement and determines that it is legally sufficient.

(b) A toll project entity shall pay a nonrefundable examination fee to the attorney general on submitting a proposed comprehensive development agreement for review. At the time the examination fee is paid, the toll project entity shall also submit for review a complete transcript of proceedings related to the comprehensive development agreement.

(c) If the toll project entity submits multiple proposed comprehensive development agreements relating to the same toll project for review, the entity shall pay the examination fee under Subsection (b) for each proposed comprehensive development agreement.

(d) The attorney general shall provide a legal sufficiency determination not later than the 60th business day after the date the examination fee and transcript of the proceedings required under Subsection (b) are received. If the attorney general cannot provide a legal sufficiency determination within the 60-business-day period, the attorney general shall notify the toll project entity in writing of the reason for the delay and may extend the review period for not more than 30 business days.

(e) After the attorney general issues a legal sufficiency determination, a toll project entity may supplement the transcript of proceedings or amend the comprehensive development agreement to facilitate a redetermination by the attorney general of the prior legal sufficiency determination issued under this section.

(f) The toll project entity may collect or seek reimbursement of the examination fee under Subsection (b) from the private participant.

(g) The attorney general by rule shall set the examination fee required under Subsection (b) in a reasonable amount and may adopt other rules as necessary to implement this section. The fee may not be set in an amount that is determined by a percentage of the cost of the toll project. The amount of the fee may not exceed reasonable attorney's fees charged for similar legal services in the private sector.

SECTION 26.07. The fee prescribed by Section 371.051, Transportation Code, as amended by this article, applies only to a comprehensive development agreement submitted to the office of the attorney general on or after the effective date of this article.

Explanation: The text is omitted as unnecessary because it largely duplicates or is in conflict with provisions of **SB 731**, Acts of the 82nd Legislature, Regular Session, 2011, as effective June 17, 2011.

(10) House Rule 13, Section 9(a)(4), is suspended to permit the committee in proposed Sections 23.01-23.04 of the bill to add text on a matter which is not included in either the house or senate version of the bill to read as follows:

SECTION 23.01. Section 572.054, Government Code, is amended by adding Subsection (g-1) to read as follows:

(g-1) For purposes of this section, the Department of Information Resources is a regulatory agency.

SECTION 23.02. Section 2054.005, Government Code, is amended to read as follows:

Sec. 2054.005. SUNSET PROVISION. (a) The Department of Information Resources is subject to Chapter 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, the department is abolished and this chapter expires September 1, 2013 [2011].

(b) The review of the Department of Information Resources by the Sunset Advisory Commission in preparation for the work of the 83rd Legislature, Regular Session, is not limited to the appropriateness of recommendations made by the commission to the 82nd Legislature. In the commission's report to the 83rd Legislature, the commission may include any recommendations it considers appropriate.

SECTION 23.03. Subchapter C, Chapter 2054, Government Code, is amended by adding Section 2054.064 to read as follows:

Sec. 2054.064. BOARD APPROVAL OF CONTRACTS. The board by rule shall establish approval requirements for all contracts, including a monetary threshold above which board approval is required before the contract may be executed.

SECTION 23.04. Subsection (b), Section 2054.376, Government Code, is amended to read as follows:

(b) This subchapter does not apply to:

(1) the Department of Public Safety's use for criminal justice or homeland security purposes of a federal database or network;

(2) a Texas equivalent of a database or network described by Subdivision (1) that is managed by the Department of Public Safety;

(3) the uniform statewide accounting system, as that term is used in Subchapter C, Chapter 2101;

(4) the state treasury cash and treasury management system; ~~or~~

(5) a database or network managed by the comptroller to:

(A) collect and process multiple types of taxes imposed by the state; or

(B) manage or administer fiscal, financial, revenue, and expenditure activities of the state under Chapter 403 and Chapter 404; or

(6) a database or network managed by the Department of Agriculture.

Explanation: The change is necessary to provide for Sunset Advisory Commission review of and for functions and activities of the Department of Information Resources and to provide for the applicability of restrictions on certain activities by former employees of the Department of Information Resources.

(11) House Rule 13, Section 9(a)(4), is suspended to permit the committee in proposed Section 23.06 of the bill to add text on a matter which is not included in either the house or senate version of the bill to read as follows:

SECTION 23.06. Subsections (b) and (d), Section 2157.068, Government Code, are amended to read as follows:

(b) The department shall negotiate with vendors ~~[to attempt]~~ to obtain the best value for the state in the purchase of commodity items. The department may consider strategic sourcing and other methodologies to select the vendor offering the best value on [a favorable price for all of state government on licenses for] commodity items~~[, based on the aggregate volume of purchases expected to be made by the state].~~ The terms and conditions of a license agreement between a



vendor and the department under this section may not be less favorable to the state than the terms of similar license agreements between the vendor and retail distributors.

Explanation: The change is necessary to provide authority for negotiations for the best value in commodity purchases.

(12) House Rule 13, Section 9(a)(1), is suspended to permit the committee to alter text which is not in disagreement in proposed Section 26.01 of the bill to read as follows:

SECTION 26.01. Subsection (c), Section 434.017, Government Code, is amended to read as follows:

(c) Money in the fund may only be appropriated to the Texas Veterans Commission. Money appropriated under this subsection shall be used to:

(1) make grants to address veterans' needs; ~~and~~

(2) administer the fund; and

(3) analyze and investigate data received from the federal Public Assistance Reporting Information System (PARIS) that is administered by the Administration for Children and Families of the United States Department of Health and Human Services.

Explanation: The change is necessary to conform the text to the change in law made by **SB 1739**, Acts of the 82nd Legislature, Regular Session, 2011, as effective June 17, 2011.

(13) House Rule 13, Section 9(a)(4), is suspended to permit the committee in proposed Section 34.06 of the bill to add text on a matter which is not included in either the house or senate version of the bill to read as follows:

SECTION 34.06. It is the intent of the legislature that the Legislative Budget Board place information on its Internet website that provides additional program detail for items of appropriation in the General Appropriations Act. The Legislative Budget Board shall include as additional program detail the specific programs funded, the source of that funding, and the related statutory authorization.

Explanation: The change is necessary to provide for greater access to information regarding the state budget.

(14) House Rule 13, Section 9(a)(3), is suspended to permit the committee to add text on a matter which is not in disagreement in proposed Section 35.02 of the bill by adding Section 314.002(d), Labor Code, to read as follows:

(d) The commission, for the purposes of this section, may use:

(1) money appropriated to the commission; and

(2) money that is transferred to the commission from trusted programs within the office of the governor, including:

(A) appropriated money from the Texas Enterprise Fund;

(B) available federal funds; and

(C) money from other appropriate, statutorily authorized funding sources.

Explanation: The change is necessary to clarify funding matters for purposes of the Texas Back to Work Program.

(15) House Rule 13, Section 9(a)(4), is suspended to permit the committee in proposed Section 41.01 of the bill to add text on a matter which is not included in either the house or the senate version of the bill by adding amended Subsections (b), (c), and (e), Article 103.0033, Code of Criminal Procedure, to read as follows:

(b) This article applies only to:

(1) a ~~each~~ county with a population of 50,000 or greater; [in this state]  
and

(2) a ~~to each~~ municipality with a population of 100,000 or greater.

(c) Unless granted a waiver under Subsection (h), each county and municipality shall develop and implement a program that complies with the prioritized implementation schedule under Subsection (h). ~~[A county may develop and implement a program that complies with the prioritized implementation schedule under Subsection (h).]~~ A county program must include district, county, and justice courts.

(e) Not later than June 1 of each year, the office shall identify those counties and municipalities that:

(1) have not implemented a program; and

(2) are able ~~[planning]~~ to implement a program before April 1 of the following year.

Explanation: The change is necessary to change the population of counties to which the Office of Court Administration's collection improvement program applies.

(16) House Rule 13, Section 9(a)(1), is suspended to permit the committee to alter text which is not in disagreement in proposed Section 43.03 of the bill, added Section 2306.2585(c), Government Code, to read as follows:

(c) The department may use any available revenue, including legislative appropriations, appropriation transfers from the trustee programs within the office of the governor, including authorized appropriations from the Texas Enterprise Fund, available federal funds, and any other statutorily authorized and appropriate funding sources transferred from the trustee programs within the office of the governor, for the purposes of this section. The department shall solicit and accept gifts and grants for the purposes of this section. The department shall use gifts and grants received for the purposes of this section before using any other revenue.

Explanation: The change is necessary to clarify the funding sources available for purposes of the homeless housing and services program.

(17) House Rule 13, Section 9(a)(2), is suspended to permit the committee to omit text which is not in disagreement, Article 57 of the senate engrossment of SB 1 and the corresponding article of the bill as the bill was amended by the house of representatives, relating to the place of business of a retailer for sales tax purposes, that reads:

#### ARTICLE 57. PLACE OF BUSINESS OF A RETAILER FOR SALES TAX PURPOSES

SECTION 57.01. Subdivision (3), Subsection (a), Section 321.002, Tax Code, is amended to read as follows:

(3) "Place of business of the retailer" means an established outlet, office, or location operated by the retailer or the retailer's agent or employee for the purpose of receiving orders for taxable items and includes any location at which three or more orders are received by the retailer during a calendar year. A warehouse, storage yard, or manufacturing plant is not a "place of business of the retailer" unless at least three orders are received by the retailer during the calendar year at the warehouse, storage yard, or manufacturing plant. An outlet, office, facility, or any location that contracts with a retail or commercial business [engaged in activities to which this chapter applies] to process for that business invoices, purchase orders, [or] bills of lading, or other equivalent records onto which sales tax is added, including an office operated for the purpose of buying and selling taxable goods to be used or consumed by the retail or commercial business, is not a "place of business of the retailer" if the comptroller determines that the outlet, office, facility, or location functions or exists to avoid the tax imposed by this chapter or to rebate a portion of the tax imposed by this chapter to the contracting business. Notwithstanding any other provision of this subdivision, a kiosk is not a "place of business of the retailer." In this subdivision, "kiosk" means a small stand-alone area or structure that:

(A) is used solely to display merchandise or to submit orders for taxable items from a data entry device, or both;

(B) is located entirely within a location that is a place of business of another retailer, such as a department store or shopping mall; and

(C) at which taxable items are not available for immediate delivery to a customer.

SECTION 57.02. (a) Except as provided by Subsection (b) of this section, this article takes effect October 1, 2011.

(b) If **HB 590**, Acts of the 82nd Legislature, Regular Session, 2011, becomes law, this article has no effect.

Explanation: The text is omitted as unnecessary because it largely duplicates Section 1, **HB 590**, Acts of the 82nd Legislature, Regular Session, 2011, as effective September 1, 2011.

(18) House Rule 13, Section 9(a)(2), is suspended to permit the committee to omit text which is not in disagreement, Article 58 of the senate engrossment of **SB 1** and the corresponding article of the bill as the bill was amended by the house of representatives, relating to farm and ranch lands conservation, that reads:

#### ARTICLE 58. TEXAS FARM AND RANCH LANDS CONSERVATION PROGRAM

SECTION 58.01. Subsection (b), Section 183.059, Natural Resources Code, is amended to read as follows:

(b) To receive a grant from the fund under this subchapter, an applicant who is qualified to be an easement holder under this subchapter must submit an application to the council. The application must:

(1) set out the parties' clear conservation goals consistent with the program;

(2) include a site-specific estimate-of-value appraisal by a licensed appraiser qualified to determine the market value of the easement; and

(3) ~~[demonstrate that the applicant is able to match 50 percent of the amount of the grant being sought, considering that the council may choose to allow a donation of part of the appraised value of the easement to be considered as in-kind matching funds; and~~

~~[(4)]~~ include a memorandum of understanding signed by the landowner and the applicant indicating intent to sell an agricultural conservation easement and containing the terms of the contract for the sale of the easement.

SECTION 58.02. If S.B. No. 1044, Acts of the 82nd Legislature, Regular Session, 2011, becomes law, this article has no effect.

Explanation: The text is omitted as unnecessary because it largely duplicates provisions of Section 3, **SB 1044**, Acts of the 82nd Legislature, Regular Session, 2011, as effective June 17, 2011.

(19) House Rule 13, Section 9(a)(2), is suspended to permit the committee to omit text which is not in disagreement, Section 60.02 of the senate engrossment of **SB 1** and the corresponding section of the bill as the bill was amended by the house of representatives, that reads:

SECTION 60.02. Subsection (a), Section 811.012, Government Code, as effective September 1, 2011, is amended to read as follows:

(a) Not later than June 1 of every fifth ~~[each]~~ year, the retirement system shall provide to the comptroller, for the purpose of assisting the comptroller in the identification of persons entitled to unclaimed property reported to the comptroller, the name, address, social security number, and date of birth of each member, retiree, and beneficiary from the retirement system's records.

Explanation: The text is omitted as unnecessary because it duplicates the substance of Section 4, **SB 1664**, Acts of the 82nd Legislature, Regular Session, 2011, as effective September 1, 2011.

(20) House Rule 13, Section 9(a)(4), is suspended to permit the committee in proposed Section 61.02 of the bill to add text on a matter which is not included in either the house or senate version of the bill to read as follows:

SECTION 61.02. Subchapter A, Chapter 30A, Education Code, is amended by adding Section 30A.007 to read as follows:

Sec. 30A.007. LOCAL POLICY ON ELECTRONIC COURSES. (a) A school district or open-enrollment charter school shall adopt a policy that provides district or school students with the opportunity to enroll in electronic courses provided through the state virtual school network. The policy must be consistent with the requirements imposed by Section 26.0031.

(b) For purposes of a policy adopted under Subsection (a), the determination of whether or not an electronic course will meet the needs of a student with a disability shall be made by the student's admission, review, and dismissal committee in a manner consistent with state and federal law, including the Individuals with Disabilities Education Act (20 U.S.C. Section 1400 et seq.) and Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794).

Explanation: The change is necessary to provide for consistent policies for student enrollment through the state virtual school network.

(21) House Rule 13, Section 9(a)(4), is suspended to permit the committee in proposed Section 61.03 of the bill to add text on a matter which is not included in either the house or senate version of the bill to read as follows:

SECTION 61.03. Subchapter C, Chapter 30A, Education Code, is amended by adding Section 30A.1021 to read as follows:

Sec. 30A.1021. PUBLIC ACCESS TO USER COMMENTS REGARDING ELECTRONIC COURSES. (a) The administering authority shall provide students who have completed or withdrawn from electronic courses offered through the virtual school network and their parents with a mechanism for providing comments regarding the courses.

(b) The mechanism required by Subsection (a) must include a quantitative rating system and a list of verbal descriptors that a student or parent may select as appropriate.

(c) The administering authority shall provide public access to the comments submitted by students and parents under this section. The comments must be in a format that permits a person to sort the comments by teacher, electronic course, and provider school district or school.

Explanation: The change is necessary to gather and disseminate information on students' and parents' experiences with the state virtual school network.

(22) House Rule 13, Section 9(a)(4), is suspended to permit the committee in proposed Section 61.04 of the bill to add text on a matter which is not included in either the house or senate version of the bill to read as follows:

SECTION 61.04. Section 30A.104, Education Code, is amended to read as follows:

Sec. 30A.104. COURSE ELIGIBILITY IN GENERAL. (a) A course offered through the state virtual school network must:

(1) be in a specific subject that is part of the required curriculum under Section 28.002(a);

(2) be aligned with the essential knowledge and skills identified under Section 28.002(c) for a grade level at or above grade level three; and

(3) be the equivalent in instructional rigor and scope to a course that is provided in a traditional classroom setting during:

(A) a semester of 90 instructional days; and

(B) a school day that meets the minimum length of a school day required under Section 25.082.

(b) If the essential knowledge and skills with which an approved course is aligned in accordance with Subsection (a)(2) are modified, the provider school district or school must be provided the same time period to revise the course to achieve alignment with the modified essential knowledge and skills as is provided for the modification of a course provided in a traditional classroom setting.

Explanation: The change is necessary for the administration of changes in essential knowledge and skills applicable to an approved state virtual school network course.

(23) House Rule 13, Section 9(a)(4), is suspended to permit the committee in proposed Sections 61.07, 61.08, and 61.09 of the bill to add text on a matter which is not included in either the house or senate version of the bill to read as follows:

SECTION 61.07. Subchapter D, Chapter 30A, Education Code, is amended by adding Section 30A.153 to read as follows:

Sec. 30A.153. FOUNDATION SCHOOL PROGRAM FUNDING. (a) A school district or open-enrollment charter school in which a student is enrolled is entitled to funding under Chapter 42 for the student's enrollment in an electronic course offered through the state virtual school network in the same manner that the district or school is entitled to funding for the student's enrollment in courses provided in a traditional classroom setting, provided that the student successfully completes the electronic course.

(b) The commissioner, after considering comments from school district and open-enrollment charter school representatives, shall adopt a standard agreement that governs payment of funds and other matters relating to a student's enrollment in an electronic course offered through the state virtual school network. The agreement may not require a school district or open-enrollment charter school to pay the provider the full amount until the student has successfully completed the electronic course.

(c) A school district or open-enrollment charter school shall use the standard agreement adopted under Subsection (b) unless:

(1) the district or school requests from the commissioner permission to modify the standard agreement; and

(2) the commissioner authorizes the modification.

(d) The commissioner shall adopt rules necessary to implement this section, including rules regarding attendance accounting.

SECTION 61.08. Subsection (a), Section 42.302, Education Code, is amended to read as follows:

(a) Each school district is guaranteed a specified amount per weighted student in state and local funds for each cent of tax effort over that required for the district's local fund assignment up to the maximum level specified in this subchapter. The amount of state support, subject only to the maximum amount under Section 42.303, is determined by the formula:

$$\text{GYA} = (\text{GL} \times \text{WADA} \times \text{DTR} \times 100) - \text{LR}$$

where:

"GYA" is the guaranteed yield amount of state funds to be allocated to the district;

"GL" is the dollar amount guaranteed level of state and local funds per weighted student per cent of tax effort, which is an amount described by Subsection (a-1) or a greater amount for any year provided by appropriation;

"WADA" is the number of students in weighted average daily attendance, which is calculated by dividing the sum of the school district's allotments under Subchapters B and C, less any allotment to the district for transportation, any allotment under Section 42.158[~~42.159~~] or 42.160, and 50 percent of the adjustment under Section 42.102, by the basic allotment for the applicable year;

"DTR" is the district enrichment tax rate of the school district, which is determined by subtracting the amounts specified by Subsection (b) from the total amount of maintenance and operations taxes collected by the school district for the applicable school year and dividing the difference by the quotient of the district's taxable value of property as determined under Subchapter M, Chapter 403, Government Code, or, if applicable, under Section 42.2521, divided by 100; and

"LR" is the local revenue, which is determined by multiplying "DTR" by the quotient of the district's taxable value of property as determined under Subchapter M, Chapter 403, Government Code, or, if applicable, under Section 42.2521, divided by 100.

SECTION 61.09. Section 42.159, Education Code, is repealed.

Explanation: The changes are necessary to clarify issues regarding funding for students enrolled in electronic courses offered through the state virtual school network.

(24) House Rule 13, Section 9(a)(4), is suspended to permit the committee in proposed Article 66A of the bill to add text on a matter which is not included in either the house or senate version of the bill to read as follows:

ARTICLE 66A. GUARDIANSHIP MATTERS AND PROCEEDINGS:  
AMENDMENTS TO ESTATES CODE

SECTION 66A.01. Subpart B, Part 2, Subtitle Y, Title 3, Estates Code, as effective January 1, 2014, is amended by adding Section 619 to read as follows:

Sec. 619. REVIEW OF TRANSFERRED GUARDIANSHIP. Not later than the 90th day after the date the transfer of the guardianship takes effect under Section 616, the court to which the guardianship was transferred shall hold a hearing to consider modifying the rights, duties, and powers of the guardian or any other provisions of the transferred guardianship.

SECTION 66A.02. Section 1253.051, Estates Code, as effective January 1, 2014, is amended to read as follows:

Sec. 1253.051. APPLICATION FOR RECEIPT AND ACCEPTANCE OF FOREIGN GUARDIANSHIP. A guardian appointed by a foreign court to represent an incapacitated person who is residing in this state or intends to move to this state may file an application with a court in which the ward resides or intends to reside to have the guardianship transferred to the court. The application must have attached a certified copy of all papers of the guardianship filed and recorded in the foreign court.

SECTION 66A.03. Section 1253.053, Estates Code, as effective January 1, 2014, is amended by amending Subsection (a) and adding Subsection (f) to read as follows:

(a) The [On the court's own motion or on the motion of the ward or any interested person, the] court shall hold a hearing to:

(1) consider an application for receipt and acceptance of a foreign guardianship under this subchapter; and

(2) consider modifying the administrative procedures or requirements of the proposed transferred guardianship in accordance with local and state law.

(f) At the time of granting an application for receipt and acceptance of a foreign guardianship, the court may also modify the administrative procedures or requirements of the transferred guardianship in accordance with local and state law.

SECTION 66A.04. Subsection (b), Section 1253.102, Estates Code, as effective January 1, 2014, is amended to read as follows:

(b) In making a determination under Subsection (a), the court may consider:

- (1) the interests of justice;
- (2) the best interests of the ward or proposed ward; ~~and~~
- (3) the convenience of the parties; and
- (4) the preference of the ward or proposed ward, if the ward or proposed ward is 12 years of age or older.

SECTION 66A.05. Chapter 1253, Estates Code, as effective January 1, 2014, is amended by adding Subchapter D to read as follows:

SUBCHAPTER D. DETERMINATION OF MOST APPROPRIATE FORUM  
FOR CERTAIN GUARDIANSHIP PROCEEDINGS

Sec. 1253.151. DETERMINATION OF ACQUISITION OF JURISDICTION IN THIS STATE DUE TO UNJUSTIFIABLE CONDUCT. If at any time a court of this state determines that it acquired jurisdiction of a proceeding for the appointment of a guardian of the person or estate, or both, of a ward or proposed ward because of unjustifiable conduct, the court may:

- (1) decline to exercise jurisdiction;
- (2) exercise jurisdiction for the limited purpose of fashioning an appropriate remedy to ensure the health, safety, and welfare of the ward or proposed ward or the protection of the ward's or proposed ward's property or prevent a repetition of the unjustifiable conduct, including staying the proceeding until a petition for the appointment of a guardian or issuance of a protective order is filed in a court of another state having jurisdiction; or

(3) continue to exercise jurisdiction after considering:

(A) the extent to which the ward or proposed ward and all persons required to be notified of the proceedings have acquiesced in the exercise of the court's jurisdiction;

(B) whether the court of this state is a more appropriate forum than the court of any other state after considering the factors described by Section 1253.102(b); and

(C) whether the court of any other state would have jurisdiction under the factual circumstances of the matter.

Sec. 1253.152. ASSESSMENT OF EXPENSES AGAINST PARTY. (a) If a court of this state determines that it acquired jurisdiction of a proceeding for the appointment of a guardian of the person or estate, or both, of a ward or proposed ward because a party seeking to invoke the court's jurisdiction engaged in unjustifiable conduct, the court may assess against that party necessary and reasonable expenses, including attorney's fees, investigative fees, court costs, communication expenses, witness fees and expenses, and travel expenses.



(b) The court may not assess fees, costs, or expenses of any kind against this state or a governmental subdivision, agency, or instrumentality of this state unless authorized by other law.

SECTION 66A.06. The following are repealed:

- (1) Section 1253.054, Estates Code, as effective January 1, 2014;
- (2) the changes in law made by Sections 66.05 and 66.06 of this Act to Sections 892 and 894, Texas Probate Code; and
- (3) Section 895, Texas Probate Code, as added by Section 66.07 of this Act.

SECTION 66A.07. This article takes effect January 1, 2014.

Explanation: The change is necessary to conform the provisions of the Estates Code, as effective January 1, 2014, to the changes in law to be made by proposed Article 66 of the bill to the Texas Probate Code.

(25) House Rule 13, Section 9(a)(4), is suspended to permit the committee in proposed Article 71 of the bill to add text on a matter which is not included in either the house or senate version of the bill to read as follows:

ARTICLE 71. CHRONIC HEALTH CONDITIONS SERVICES MEDICAID  
WAIVER PROGRAM

SECTION 71.01. Subchapter B, Chapter 531, Government Code, is amended by adding Section 531.0226 to read as follows:

Sec. 531.0226. CHRONIC HEALTH CONDITIONS SERVICES MEDICAID WAIVER PROGRAM. (a) If feasible and cost-effective, the commission may apply for a waiver from the federal Centers for Medicare and Medicaid Services or another appropriate federal agency to more efficiently leverage the use of state and local funds in order to maximize the receipt of federal Medicaid matching funds by providing benefits under the Medicaid program to individuals who:

- (1) meet established income and other eligibility criteria; and
- (2) are eligible to receive services through the county for chronic health conditions.

(b) In establishing the waiver program under this section, the commission shall:

- (1) ensure that the state is a prudent purchaser of the health care services that are needed for the individuals described by Subsection (a);
- (2) solicit broad-based input from interested persons;
- (3) ensure that the benefits received by an individual through the county are not reduced once the individual is enrolled in the waiver program; and
- (4) employ the use of intergovernmental transfers and other procedures to maximize the receipt of federal Medicaid matching funds.

Explanation: The change is necessary to provide for prudent purchasing of services for chronic health conditions and to maximize receipt of federal Medicaid matching funds.

(26) House Rule 13, Section 9(a)(4), is suspended to permit the committee in proposed Article 74 of the bill to add text on a matter which is not included in either the house or the senate version of the bill to read as follows:

ARTICLE 74. OPERATION AND ADMINISTRATION OF THE TEXAS  
DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

SECTION 74.01. Section 2306.022, Government Code, is amended to read as follows:

Sec. 2306.022. APPLICATION OF SUNSET ACT. The Texas Department of Housing and Community Affairs is subject to Chapter 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, the department is abolished and this chapter expires September 1, 2013 [2014].

SECTION 74.02. Subsections (d-1) and (d-2), Section 2306.111, Government Code, are amended to read as follows:

(d-1) In allocating low income housing tax credit commitments under Subchapter DD, the department shall, before applying the regional allocation formula prescribed by Section 2306.1115, set aside for at-risk developments, as defined by Section 2306.6702, not less than the minimum amount of housing tax credits required under Section 2306.6714. Funds or credits are not required to be allocated according to the regional allocation formula under Subsection (d) if:

(1) the funds or credits are reserved for contract-for-deed conversions or for set-asides mandated by state or federal law and each contract-for-deed allocation or set-aside allocation equals not more than 10 percent of the total allocation of funds or credits for the applicable program;

(2) the funds or credits are allocated by the department primarily to serve persons with disabilities; or

(3) the funds are housing trust funds administered by the department under Sections 2306.201-2306.206 that are not otherwise required to be set aside under state or federal law and do not exceed \$3 million for each programmed activity during each application cycle.

(d-2) In allocating low income housing tax credit commitments under Subchapter DD, the department shall allocate five percent of the housing tax credits in each application cycle to developments that receive federal financial assistance through the Texas Rural Development Office of the United States Department of Agriculture. Any funds allocated to developments under this subsection that involve rehabilitation must come from the funds set aside for at-risk developments under Section 2306.6714 and any additional funds set aside for those developments under Subsection (d-1). This subsection does not apply to a development financed wholly or partly under Section 538 of the Housing Act of 1949 (42 U.S.C. Section 1490p-2) unless the development involves the rehabilitation of an existing property that has received and will continue to receive as part of the financing of the development federal financial assistance provided under Section 515 of the Housing Act of 1949 (42 U.S.C. Section 1485).

SECTION 74.03. Section 2306.67022, Government Code, is amended to read as follows:

Sec. 2306.67022. QUALIFIED ALLOCATION PLAN; MANUAL. At least biennially, the ~~[The]~~ board ~~[annually]~~ shall adopt a qualified allocation plan and a corresponding manual to provide information regarding the administration of and eligibility for the low income housing tax credit program. The board may adopt the plan and manual annually, as considered appropriate by the board.

SECTION 74.04. Subsections (b) and (f), Section 2306.6711, Government Code, are amended to read as follows:

(b) Not later than the deadline specified in the qualified allocation plan, the board shall issue commitments for available housing tax credits based on the application evaluation process provided by Section 2306.6710. The board may not allocate to an applicant housing tax credits in any unnecessary amount, as determined by the department's underwriting policy and by federal law, and in any event may not allocate to the applicant housing tax credits in an amount greater than \$3 [\$2] million in a single application round or to an individual development more than \$2 million in a single application round.

(f) The board may allocate housing tax credits to more than one development in a single community, as defined by department rule, in the same calendar year only if the developments are or will be located more than two [one] linear miles [mile] apart. This subsection applies only to communities contained within counties with populations exceeding one million.

SECTION 74.05. Subsections (a), (b), and (c), Section 2306.6724, Government Code, are amended to read as follows:

(a) Regardless of whether the board will adopt the plan annually or biennially [Not later than September 30 of each year], the department, not later than September 30 of the year preceding the year in which the new plan is proposed for use, shall prepare and submit to the board for adoption any proposed [the] qualified allocation plan required by federal law for use by the department in setting criteria and priorities for the allocation of tax credits under the low income housing tax credit program.

(b) Regardless of whether the board has adopted the plan annually or biennially, the [The] board shall [adopt and] submit to the governor any proposed [the] qualified allocation plan not later than November 15 of the year preceding the year in which the new plan is proposed for use.

~~[(e)]~~ The governor shall approve, reject, or modify and approve the proposed qualified allocation plan not later than December 1.

SECTION 74.06. Section 1201.104, Occupations Code, is amended by amending Subsections (a), (g), and (h) and adding Subsections (a-1), (a-2), (a-3), and (a-4) to read as follows:

(a) Except as provided by Subsection (g) ~~[(e)]~~, as a requirement for a manufacturer's, retailer's, broker's, installer's, salvage rebuilder's, or salesperson's license, a person who was not licensed or registered with the department or a predecessor agency on September 1, 1987, must, not more than 12 months before applying for the person's first license under this chapter, attend and successfully complete eight [20] hours of instruction in the law, including instruction in consumer protection regulations.

(a-1) If the applicant is not an individual, the applicant must have at least one related person who satisfies the requirements of Subsection (a) [~~meets this requirement~~]. If that applicant is applying for a retailer's license, the related person must be a management official who satisfies the requirements of Subsections (a) and (a-2) at each retail location operated by the applicant.

(a-2) An applicant for a retailer's license must complete four hours of specialized instruction relevant to the sale, exchange, and lease-purchase of manufactured homes. The instruction under this subsection is in addition to the instruction required under Subsection (a).

(a-3) An applicant for an installer's license must complete four hours of specialized instruction relevant to the installation of manufactured homes. The instruction under this subsection is in addition to the instruction required under Subsection (a).

(a-4) An applicant for a joint installer-retailer license must comply with Subsections (a-2) and (a-3), for a total of eight hours of specialized instruction. The instruction under this subsection is in addition to the instruction required under Subsection (a).

(g) Subsections [~~Subsection~~] (a), (a-2), (a-3), and (a-4) do [~~does~~] not apply to a license holder who applies:

- (1) for a license for an additional business location; or
- (2) to renew or reinstate a license.

(h) An examination must be a requirement of successful completion of any initial required course of instruction under this section. The period needed to complete an examination under this subsection may not be used to satisfy the minimum education requirements under Subsection (a), (a-2), (a-3), or (a-4).

SECTION 74.07. Section 1201.303, Occupations Code, is amended by amending Subsection (b) and adding Subsections (c), (d), (e), (f), and (g) to read as follows:

(b) The department shall establish an installation inspection program in which at least 75 [~~25~~] percent of installed manufactured homes are inspected on a sample basis for compliance with the standards and rules adopted and orders issued by the director. The program must place priority on inspecting multisection homes and homes installed in Wind Zone II counties.

(c) On or after January 1, 2015, the director by rule shall establish a third-party installation inspection program to supplement the inspections of the department if the department is not able to inspect at least 75 percent of manufactured homes installed in each of the calendar years 2012, 2013, and 2014.

(d) The third-party installation inspection program established under Subsection (c) must:

- (1) establish qualifications for third-party inspectors to participate in the program;
- (2) require third-party inspectors to register with the department before participating in the program;
- (3) establish a biennial registration and renewal process for third-party inspectors;

(4) require the list of registered third-party inspectors to be posted on the department's Internet website;

(5) establish clear processes governing inspection fees and payment to third-party inspectors;

(6) establish the maximum inspection fee that may be charged to a consumer;

(7) require a third-party inspection to occur not later than the 14th day after the date of installation of the manufactured home;

(8) establish a process for a retailer or broker to contract, as part of the sale of a new or used manufactured home, with an independent third-party inspector to inspect the installation of the home;

(9) establish a process for an installer to schedule an inspection for each consumer-to-consumer sale where a home is reinstalled;

(10) if a violation is noted in an inspection, require the installer to:

(A) remedy the violations noted;

(B) have the home reinspected at the installer's expense; and

(C) certify to the department that all violations have been corrected;

(11) require an inspector to report inspection results to the retailer, installer, and the department;

(12) require all persons receiving inspection results under Subdivision (11) to maintain a record of the results at least until the end of the installation warranty period;

(13) authorize the department to charge a filing fee and an inspection fee for third-party inspections;

(14) authorize the department to continue to conduct no-charge complaint inspections under Section 1201.355 on request, but only after an initial installation inspection is completed;

(15) establish procedures to revoke the registration of inspectors who fail to comply with rules adopted under this section; and

(16) require the department to notify the relevant state agency if the department revokes an inspector registration based on a violation that is relevant to a license issued to the applicable person by another state agency.

(e) Not later than January 1, 2015, the department shall submit to the Legislative Budget Board, the Governor's Office of Budget, Planning, and Policy, and the standing committee of each house of the legislature having primary jurisdiction over housing a report concerning whether the department inspected at least 75 percent of manufactured homes installed in each of the calendar years 2012, 2013, and 2014.

(f) Not later than December 1, 2015, the director shall adopt rules as necessary to implement Subsections (c) and (d) if the department did not inspect at least 75 percent of manufactured homes installed in each of the calendar years 2012, 2013, and 2014. Not later than January 1, 2016, the department shall begin registering third-party inspectors under Subsections (c) and (d) if the department inspections did not occur as described by this subsection.

(g) If the department is not required to establish a third-party installation inspection program as provided by Subsection (c), Subsections (c), (d), (e), and (f) and this subsection expire September 1, 2016.

SECTION 74.08. The changes in law made by this article to Section 2306.6711, Government Code, apply only to an application for low income housing tax credits that is submitted to the Texas Department of Housing and Community Affairs during an application cycle that begins on or after the effective date of this Act. An application that is submitted during an application cycle that began before the effective date of this Act is governed by the law in effect at the time the application cycle began, and the former law is continued in effect for that purpose.

SECTION 74.09. The change in law made by this article in amending Section 1201.104, Occupations Code, applies only to an application for a license filed with the executive director of the manufactured housing division of the Texas Department of Housing and Community Affairs on or after the effective date of this article. An application for a license filed before that date is governed by the law in effect on the date the application was filed, and the former law is continued in effect for that purpose.

Explanation: The changes are necessary to provide for the administration and Sunset Advisory Commission review of the Texas Department of Housing and Community Affairs, including the department's activities related to certain housing tax credits and the regulation of manufactured housing and mobile homes.

(27) House Rule 13, Section 9(a)(4), is suspended to permit the committee in proposed Article 79A of the bill to add text on a matter which is not included in either the house or senate version of the bill to read as follows:

ARTICLE 79A. CONFIDENTIALITY OF  
CERTAIN PEACE OFFICER VOUCHERS

SECTION 79A.01. Subchapter H, Chapter 660, Government Code, is amended by adding Section 660.2035 to read as follows:

Sec. 660.2035. CONFIDENTIALITY OF CERTAIN PEACE OFFICER VOUCHERS; QUARTERLY SUMMARIES. (a) A voucher or other expense reimbursement form, and any receipt or other document supporting that voucher or other expense reimbursement form, that is submitted or to be submitted under Section 660.027 is confidential under Chapter 552 for a period of 18 months following the date of travel if the voucher or other expense reimbursement form is submitted or is to be submitted for payment or reimbursement of a travel expense incurred by a peace officer while assigned to provide protection for an elected official of this state or a member of the elected official's family.

(b) At the expiration of the period provided by Subsection (a), the voucher or other expense reimbursement form and any supporting documents become subject to disclosure under Chapter 552 and are not excepted from public disclosure or confidential under that chapter or other law, except that the following provisions of that chapter apply to the information in the voucher, reimbursement form, or supporting documents:

(1) Section 552.117;

- (2) Section 552.1175;
- (3) Section 552.119;
- (4) Section 552.136;
- (5) Section 552.137;
- (6) Section 552.147; and
- (7) Section 552.151.

(c) A state agency that submits vouchers or other expense reimbursement forms described by Subsection (a) shall prepare quarterly a summary of the amounts paid or reimbursed by the comptroller based on those vouchers or other expense reimbursement forms. Each summary must:

(1) list separately for each elected official the final travel destinations and the total amounts paid or reimbursed in connection with protection provided to each elected official and that elected official's family members; and

(2) itemize the amounts listed under Subdivision (1) by the categories of travel, fuel, food, lodging or rent, and other operating expenses.

(d) The itemized amounts under Subsection (c)(2) must equal the total amount listed under Subsection (c)(1) for each elected official for the applicable quarter.

(e) A summary prepared under Subsection (c) may not include:

(1) the number or names of the peace officers or elected official's family members identified in the vouchers, expense reimbursement forms, or supporting documents;

(2) the name of any business or vendor identified in the vouchers, expense reimbursement forms, or supporting documents; or

(3) the locations in which expenses were incurred, other than the city, state, and country in which incurred.

(f) A summary prepared under Subsection (c) is subject to disclosure under Chapter 552, except as otherwise excepted from disclosure under that chapter.

(g) A state agency that receives a request for information described by Subsection (a) during the period provided by that subsection may withhold that information without the necessity of requesting a decision from the attorney general under Subchapter G, Chapter 552. The Supreme Court of Texas has original and exclusive mandamus jurisdiction over any dispute regarding the construction, applicability, or constitutionality of Subsection (a). The supreme court may appoint a master to assist in the resolution of any such dispute as provided by Rule 171, Texas Rules of Civil Procedure, and may adopt additional rules as necessary to govern the procedures for the resolution of any such dispute.

SECTION 79A.02. Section 660.2035, Government Code, as added by this article, applies according to its terms in relation to travel vouchers or other reimbursement form and any supporting documents that pertain to expenses incurred or paid on or after the effective date of this article.

Explanation: The changes are necessary to provide for confidentiality and disclosure requirements for vouchers submitted for expenses incurred by a peace officer while assigned to provide protection for an elected official of this state or a member of the elected official's family.

**HR 232 - STATEMENT OF LEGISLATIVE INTENT**

REPRESENTATIVE PICKETT: On page 20 of your privileged resolution, you talk about this PARIS, Public Assistance Reporting Information System. There was a senate bill, **SB 1739**, and I was asked to carry it on the house side. That was to make sure that the money going into the veterans' assistance fund goes only for veterans' assistance programs. In your resolution, you're adding language that now takes money out of that to analyze and investigate this PARIS program. Why are you doing this? Did someone in Health and Human Services come to you?

REPRESENTATIVE PITTS: No, this was language that was worked on behalf of Senator Leticia Van de Putte, and let me talk to you about the PARIS program. The PARIS program is a federal program that when a veteran comes into the veterans office, they get put online on the PARIS program to find out what benefits are available to this veteran. And it costs some money to do that. So, we are saying, in **HB 1** that we've already passed, we are saying that the Veterans Commission will be able to get 10 percent of the savings that this program will bring. So, in actuality, Representative Pickett, it's going to give additional money to the Veterans Commission, and to take it away now—it does say that the Veterans Commission has to pay for it. So, it is anticipated that it's going to cost \$500,000 to get on the veterans program, for the PARIS program. The Veterans Commission will pay for that, but they will be reimbursed by the savings first, and then will be able to obtain a 10 percent increase in their assistance program because of the savings of PARIS. And you have to take **SB 1** and **HB 1** together.

PICKETT: And again, I went to you before you got up here so you would go and investigate this.

PITTS: I did. Thank you very much.

PICKETT: So, I'm going to ask that this be reduced to writing and put in the journal in a moment, but at the same time, it doesn't say that here. It doesn't say that in what you have here in the resolution. And what **SB 1739** was doing was exactly to stop this very thing. The veterans' assistance program takes in monies, and one of the things that they do is relatively new is, last session, they have their own lottery ticket, and the Legislative Budget Board appropriations. Because new monies are coming in because of this lottery ticket, there were suggestions to take that money away from the veterans assistance fund because it's a new source of revenue, instead of the money that we appropriate. What you are doing, in my opinion, Jim, should be done with the dollars that are already appropriated in either Health and Human Services or to the Veterans Administration. But to take this money out of the veterans' fund and then say that they're going to get the money back—but I don't see that anywhere.

PITTS: It's in conjunction with **HB 1**.

PICKETT: So, you're telling me and this body, whatever the cost, that you're adding to this privileged resolution will be replaced to the veterans assistance program from the savings? You're going to make that commitment to me?



PITTS: I am making that commitment.

PICKETT: Mr. Pitts, one other thing I'd like to ask about. **SB 731** that had to do with fees with the Attorney General's Office. That bill passed, and was signed by the governor, and was effective immediately, June 17th. Why are you duplicating that language again beginning on page 15?

PITTS: The only duplication of the language—we took out the fees—all the fees for the attorney general, except one, which is the electronic filing, is left in this bill. **SB 367** and **SB 731** passed, and took all the other fees from the attorney general they were able to charge, and it's in those bills.

PICKETT: So, you're putting it in, or you're putting it out?

PITTS: I went outside the bounds because we took the language of our fees out of **SB 1**. The only fee that we left in, for **SB 1**, is for electronic filing only.

PICKETT: So, again, I'm not sure you answered the question. We passed **SB 731** that has this identical language. You're putting this identical language in, so you're telling me you are allowing the attorney general to charge fees on reviewing comprehensive development agreements?

PITTS: That is in **SB 731** and **SB 367**.

PICKETT: Okay, so, that's in those bills—

PITTS: It's in those bills, and we are not trying to supersede anything.

PICKETT: So, you are reaffirming that? You're telling us that you're no longer going to let the attorney general collect those fees?

PITTS: No, what I'm saying is that we took out language that has already been passed by this body, that we don't need that language in **SB 1**. So, you know, there is a lot of language in **SB 1** that says contingent on such and such passing—well, they passed. So, we took all that out.

PICKETT: And my last question was the way this begins. What is the purpose of the utility deposits being refunded to whom? In the beginning of your privileged resolution, we talk about utility deposits in the Property Code.

PITTS: You didn't give me that question, Joe. I don't know the answer to that.

PICKETT: Well, does this have anything to do with the State of Texas holding deposits? Because the Property Code, the way this thing looks like is this is something for owners of property that they're leasing to individuals.

**HR 232** was adopted by (Record 141): 93 Yeas, 49 Nays, 1 Present, not voting.

Yeas — Aliseda; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Chisum; Christian; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Eissler; Elkins; Fletcher; Flynn; Frullo; Garza; Geren; Gonzales, L.; Gooden; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Howard, C.; Huberty; Hughes; Hunter; Isaac; Jackson; Keffer; King, P.; King, S.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis;

Lyne; Madden; Margo; Miller, D.; Miller, S.; Morrison; Murphy; Nash; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pitts; Price; Riddle; Ritter; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Taylor, L.; Torres; Truitt; Weber; White; Workman; Zedler; Zerwas.

Nays — Allen; Alonzo; Alvarado; Burnam; Castro; Coleman; Cook; Davis, Y.; Deshotel; Dukes; Dutton; Farias; Farrar; Gallego; Giddings; Gonzales, V.; Gonzalez; Guillen; Gutierrez; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, D.; Johnson; King, T.; Lozano; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Muñoz; Naishtat; Oliveira; Pickett; Quintanilla; Raymond; Reynolds; Rodriguez; Strama; Thompson; Turner; Veasey; Villarreal; Vo; Walle.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Driver; Hamilton; Lucio; Taylor, V.

Absent — Anchia; Eiland; Woolley.

### **SB 1 - MOTION TO ADOPT CONFERENCE COMMITTEE REPORT**

Representative Pitts submitted the conference committee report on **SB 1**.

#### **REMARKS ORDERED PRINTED**

Representative Pickett moved to print remarks between Representative Pitts and Representative Pickett.

The motion prevailed.

#### **LEAVE OF ABSENCE GRANTED**

The following member was granted leave of absence for the remainder of today because of important business:

Anchia on motion of Strama.

#### **SB 1 - (consideration continued)**

#### **SB 1 - STATEMENT OF LEGISLATIVE INTENT**

**REPRESENTATIVE PATRICK:** First of all, I sincerely want to thank the conference committee for working to maintain the proration language that we require the state to pay back the school districts in the case of proration beyond the current reduction of \$4 billion. I also would like to thank you for creating the smoothing and evening payments for eligible districts in giving the commissioner the authority to do so. But the third and most important piece of my amendment was modified, and therefore, I have some questions.

**REPRESENTATIVE EISSLER:** Okay.

**PATRICK:** In the next session, if the regular program adjustment factor, or the RPAF, were equal to one, would this represent full funding for the regular program formulas under current law?

**EISSLER:** At 1.0, yes.

PATRICK: And the modification to my amendment sets a floor of .98 for the RPAF. What reduction in funding for the regular program formula does the RPAF equal to .98 represent?

EISSLER: That would result in a billion dollar hole in the next biennium—500 million per .01.

PATRICK: So, if it were at one, that would be an additional \$1 billion?

EISSLER: One billion dollars.

PATRICK: Over two years?

EISSLER: Correct.

PATRICK: So, if the base bill as filed in 2013 has an RPAF equal to less than one, then it would be accurate to say that the state will be reducing funding to the regular program formulas for public schools for the next biennium, 13-14?

EISSLER: Right.

PATRICK: Given this information, is it correct to say that the budget committee will have the authority to make the RPAF equal to one in order to support full funding for the regular program formulas?

EISSLER: Yes, they will, and yes.

PATRICK: Is it also correct to say that the 83rd Legislature could pass a bill that would sunset the RPAF in September 2013, which was the intent of my amendment?

EISSLER: Yes.

#### REMARKS ORDERED PRINTED

Representative Patrick moved to print remarks between Representative Eissler and Representative Patrick.

The motion prevailed.

Representative Pitts moved to adopt the conference committee report on **SB 1**.

The motion to adopt the conference committee report on **SB 1** was lost by (Record 142): 64 Yeas, 79 Nays, 1 Present, not voting.

Yeas — Aliseda; Anderson, R.; Aycock; Beck; Berman; Branch; Brown; Burkett; Button; Callegari; Chisum; Craddick; Crownover; Darby; Davis, J.; Davis, S.; Eissler; Elkins; Frullo; Garza; Geren; Gonzales, L.; Gooden; Hancock; Harper-Brown; Hartnett; Howard, C.; Huberty; Hunter; Jackson; Keffer; Kolkhorst; Kuempel; Larson; Legler; Lewis; Madden; Margo; Miller, D.; Miller, S.; Murphy; Nash; Orr; Otto; Parker; Patrick; Phillips; Pitts; Price; Riddle; Ritter; Schwertner; Scott; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Taylor, L.; Torres; Truitt; Woolley; Workman; Zerwas.

Nays — Allen; Alonzo; Alvarado; Anderson, C.; Bonnen; Burnam; Cain; Carter; Castro; Christian; Coleman; Cook; Creighton; Davis, Y.; Deshotel; Dukes; Dutton; Eiland; Farias; Farrar; Fletcher; Flynn; Gallego; Giddings;

Gonzales, V.; Gonzalez; Guillen; Gutierrez; Hardcastle; Harless; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, D.; Hughes; Isaac; Johnson; King, P.; King, S.; King, T.; Kleinschmidt; Landtroop; Laubenberg; Lavender; Lozano; Lyne; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Morrison; Muñoz; Naishtat; Oliveira; Paxton; Peña; Perry; Pickett; Quintanilla; Raymond; Reynolds; Rodriguez; Sheets; Simpson; Solomons; Strama; Thompson; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Zedler.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Anchia; Driver; Hamilton; Lucio; Taylor, V.

Absent — Bohac.

### STATEMENTS OF VOTE

I was shown voting yes on Record No. 142. I intended to vote no.

Aliseda

I was shown voting yes on Record No. 142. I intended to vote no.

S. Miller

### SB 1 - VOTE RECONSIDERED

Representative P. King moved to suspend all necessary rules and reconsider the vote by which the motion to adopt the conference committee report on **SB 1** was lost.

The motion to suspend the rules and to reconsider prevailed by (Record 143): 96 Yeas, 44 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Eissler; Elkins; Fletcher; Flynn; Frullo; Garza; Geren; Gonzales, L.; Gooden; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hochberg; Hopson; Howard, C.; Huberty; Hughes; Hunter; Isaac; Jackson; Keffer; King, P.; King, S.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lyne; Madden; Margo; Miller, S.; Morrison; Murphy; Nash; Orr; Otto; Parker; Patrick; Paxton; Perry; Phillips; Pitts; Price; Riddle; Ritter; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Taylor, L.; Torres; Truitt; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Alonzo; Alvarado; Burnam; Castro; Coleman; Davis, Y.; Deshotel; Dukes; Dutton; Farias; Farrar; Gallego; Giddings; Gonzales, V.; Gonzalez; Guillen; Gutierrez; Hernandez Luna; Howard, D.; Johnson; King, T.; Lozano; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Muñoz; Naishtat; Oliveira; Peña; Pickett; Quintanilla; Raymond; Reynolds; Rodriguez; Thompson; Turner; Veasey; Villarreal; Vo; Walle.

Present, not voting — Mr. Speaker(C); Miller, D.

Absent, Excused — Anchia; Driver; Hamilton; Lucio; Taylor, V.

Absent — Eiland; Hilderbran; Strama.

### STATEMENTS OF VOTE

When Record No. 143 was taken, my vote failed to register. I would have voted no.

Hilderbran

I was shown voting yes on Record No. 143. I intended to vote no.

Landtroop

### LEAVES OF ABSENCE GRANTED

The following member was granted leave of absence for the remainder of today because of important business:

Castro on motion of Hernandez Luna.

The following member was granted leave of absence for the remainder of today because of family business:

Strama on motion of Hochberg.

### SB 1 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Pitts submitted the conference committee report on **SB 1**.

Representative Pitts moved to adopt the conference committee report on **SB 1**.

The motion to adopt the conference committee report on **SB 1** prevailed by (Record 144): 80 Yeas, 57 Nays, 2 Present, not voting.

Yeas — Aliseda; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Callegari; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Eissler; Elkins; Fletcher; Frullo; Garza; Geren; Gonzales, L.; Gooden; Hancock; Hardcastle; Harper-Brown; Hartnett; Hopson; Howard, C.; Huberty; Hughes; Hunter; Isaac; Jackson; Keffer; King, P.; King, S.; Kleinschmidt; Kolkhorst; Kuempel; Larson; Legler; Lewis; Madden; Margo; Nash; Orr; Otto; Parker; Patrick; Perry; Phillips; Pitts; Price; Riddle; Ritter; Schwertner; Scott; Sheets; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Taylor, L.; Torres; Truitt; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Allen; Alonzo; Alvarado; Anderson, C.; Burnam; Cain; Carter; Coleman; Davis, Y.; Deshotel; Dukes; Dutton; Eiland; Farias; Farrar; Gallego; Giddings; Gonzales, V.; Gonzalez; Guillen; Gutierrez; Harless; Hernandez Luna; Hilderbran; Hochberg; Howard, D.; Johnson; King, T.; Landtroop; Lavender; Lozano; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, S.; Morrison; Muñoz; Naishtat; Oliveira; Paxton; Peña; Pickett; Quintanilla; Raymond; Reynolds; Rodriguez; Simpson; Thompson; Turner; Veasey; Villarreal; Vo; Walle.

Present, not voting — Mr. Speaker(C); Murphy.

Absent, Excused — Anchia; Castro; Driver; Hamilton; Lucio; Strama; Taylor, V.

Absent — Flynn; Laubenberg; Lyne; Miller, D.

### STATEMENTS OF VOTE

I was shown voting yes on Record No. 144. I intended to vote no.

Creighton

When Record No. 144 was taken, my vote failed to register. I would have voted yes.

Flynn

When Record No. 144 was taken, my vote failed to register. I would have voted no.

Laubenberg

When Record No. 144 was taken, I was in the house but away from my desk. I would have voted no.

Lyne

When Record No. 144 was taken, my vote failed to register. I would have voted yes.

D. Miller

I was shown voting present, not voting on Record No. 144. I intended to vote yes.

Murphy

### BILLS AND RESOLUTIONS SIGNED BY THE SPEAKER

Notice was given at this time that the speaker had signed bills and resolutions in the presence of the house (see the addendum to the daily journal, Signed by the Speaker, House List No. 2).

### RESOLUTIONS ADOPTED

Representative V. Gonzales moved to suspend all necessary rules to take up and consider at this time the following congratulatory resolutions:

**HR 11** (by Alonzo), Congratulating Julian Rodriguez on being named the 2011 valedictorian of Adamson High School in Dallas.

**HR 12** (by Alonzo), Congratulating Adan Gonzalez on being named the 2011 salutatorian of Adamson High School in Dallas.

**HR 13** (by Alonzo), Congratulating Kevin Prado on being named the 2011 valedictorian of Molina High School in Dallas.

**HR 14** (by Alonzo), Congratulating Leticia Gallegos on being named the 2011 salutatorian of Molina High School in Dallas.

**HR 15** (by Alonzo), Congratulating Gustavo Castillo on being named the 2011 valedictorian of Trini Garza Early College High School in Dallas.

**HR 16** (by Alonzo), Congratulating Jocelyn Velasquez on being named the 2011 salutatorian of Trini Garza Early College High School in Dallas.

**HR 17** (by Alonzo), Congratulating Xochitl Escobar on being named valedictorian of Sunset High School in Dallas.

**HR 18** (by Alonzo), Congratulating Veronica Flores on being named salutatorian of Sunset High School in Dallas.

**HR 19** (by Alonzo), Congratulating Kathy T. Do on being named the 2011 valedictorian of Grand Prairie High School.

**HR 20** (by Alonzo), Congratulating Juan C. Cerda on being named the 2011 salutatorian of Grand Prairie High School.

**HR 21** (by Alonzo), Congratulating Rosa Walker on her induction into the Texas AFL-CIO Hall of Fame.

**HR 22** (by Sheffield), Congratulating Ervin and Janice Schwindt of Belton on their 50th wedding anniversary.

**HR 23** (by Sheffield), Congratulating Dr. Vernon D. Holleman and Shirley Holleman of Temple on their 50th wedding anniversary.

**HR 24** (by Sheffield), Honoring Roy and Eloisa Donoso of Temple on their 50th wedding anniversary.

**HR 25** (by Sheffield), Honoring Carl and Patsy Feller of Salado on their 60th wedding anniversary.

**HR 26** (by Huberty), Congratulating Matthew Simpson of Huffman on being named valedictorian of the Class of 2011 at Hargrave High School.

**HR 27** (by Huberty), Congratulating Paige Alan Sullivan on her graduation from Kingwood High School.

**HR 28** (by Workman), Congratulating Lake Travis High School basketball coach Jan Jernberg on his retirement.

**HR 31** (by Paxton), Congratulating Burks Elementary School in McKinney on earning recognition as a Healthy Zone School.

**HR 32** (by L. Gonzales), Congratulating Patti Jurena Wiggs of Round Rock on her retirement as a teacher at Park Crest Middle School in Pflugerville.

**HR 33** (by Torres), Congratulating R. E. "Bob" Parker on his induction into the Corpus Christi Business Hall of Fame.

**HR 34** (by Torres), Congratulating the marketing and community relations department of Driscoll Children's Hospital in Corpus Christi on winning three 2011 Aster Awards.

**HR 35** (by Torres), Congratulating the Destination ImagiNation teams from Baker Middle School in Corpus Christi for advancing to the 2011 Destination ImagiNation Global Finals.

**HR 36** (by Torres), Congratulating David Richter on his induction into the Corpus Christi Business Hall of Fame.

**HR 37** (by Torres), Congratulating Dr. Robert R. Furgason on his induction into the Corpus Christi Business Hall of Fame.

**HR 38** (by Torres), Congratulating Elizabeth Chu Richter on her induction into the Corpus Christi Business Hall of Fame.

**HR 39** (by Dutton), Congratulating Gertrude Jack Lewis of Houston on the occasion of her 100th birthday.

**HR 40** (by Cain), Congratulating Second Lieutenant Jermaine Dewayne Wright of Sulphur Springs on his graduation from the United States Military Academy at West Point.

**HR 43** (by Guillen), Congratulating Homero Juan Salmon on his retirement as constable of Starr County Precinct 4.

**HR 44** (by Dutton), Commemorating EXPO 2011, hosted by the Houston Minority Supplier Development Council.

**HR 45** (by Guillen), Commending the Honorable John A. Pope III of McAllen for his distinguished work in the legal profession.

**HR 46** (by Guillen), Honoring Lino Canales, Jr., for his contributions to the community as founder of the Starr County Town Crier.

**HR 48** (by Guillen), Honoring Immaculate Conception Church in Rio Grande City for its service to the community.

**HR 50** (by Schwertner), Congratulating Clarence and Ann Crow of Georgetown on their 60th wedding anniversary.

**HR 53** (by V. Gonzales), Honoring Lauro Solis on his installation as governor of Rotary International District 5930.

**HR 54** (by V. Gonzales), Congratulating Rachelle Grace of McAllen Memorial High School on her receipt of the 2011 H-E-B Excellence in Education Leadership Award in the secondary school category.

**HR 55** (by V. Gonzales), Honoring Ernie Madsen for his nearly eight decades of service to Rotary International.

**HR 56** (by V. Gonzales), Congratulating Taryn B. Millar on earning her doctorate in psychology from George Washington University.

**HR 57** (by V. Gonzales), Commending Judge Rudy Delgado on his selection as the April 2011 Cancer Fighter of the Month by the American Cancer Society of the Rio Grande Valley.

**HR 59** (by V. Gonzales), Congratulating Jan Seale on being named Texas Poet Laureate for 2012.

**HR 60** (by V. Gonzales), Congratulating Las Palmas Healthcare Center in McAllen on earning the Public Information and Education Award from the Texas Health Care Association.

**HR 61** (by V. Gonzales), Congratulating Mariella Gorena on her retirement as principal of Wilson Elementary School in McAllen.



**HR 62** (by Guillen), Honoring Lauro L. Lopez of Rio Grande City for his contributions as a business and civic leader and as a member of the armed forces.

**HR 63** (by Guillen), Honoring Clemente Garza, Jr., and the staff of the Texas Cafe in Rio Grande City for their hard work and entrepreneurial achievements.

**HR 64** (by Guillen), Congratulating Elvia Escobedo, founder of Elvia's Beauty Shop in Rio Grande City.

**HR 65** (by Y. Davis), Congratulating former NFL star Tim Brown of DeSoto on being named a North Texas Father of the Year by the Sylvan Landau Foundation.

**HR 67** (by Giddings), Commending Katherine Hinton-Rosenberg for her service as a legislative intern in the office of State Representative Helen Giddings.

**HR 68** (by Giddings), Commending Clayton Tucker for his service as a legislative intern in the office of State Representative Helen Giddings.

**HR 69** (by Workman), Congratulating Will Hoenig of Lake Travis High School on earning first place in extemporaneous persuasive speaking at the 2011 UIL Conference 4A State Academics Spring Meet.

**HR 70** (by Workman), Congratulating Lake Travis High School on its receipt of the sweepstakes award in speech at the 2011 UIL Conference 4A State Academics Spring Meet.

**HR 71** (by Gooden), Congratulating the Forney High School softball team on its outstanding 2011 season and its appearance in the UIL 4A title game.

**HR 73** (by Guillen), Honoring Dr. Mario E. Ramirez on his contributions to health care in South Texas.

**HR 75** (by Burkett), Congratulating the first graduating class of Sunnyvale High School.

**HR 77** (by Craddick), Congratulating Billie Ann and Kenneth Baker of Midland on their 65th wedding anniversary.

**HR 78** (by Workman), Congratulating Neal White on earning first place in extemporaneous informative speaking at the 2011 UIL Conference 4A State Academics Spring Meet.

**HR 79** (by Workman), Congratulating James Bounds on earning the top score on the physics portion of the science contest at the 2011 UIL Conference 4A State Academics Spring Meet.

**HR 82** (by Guillen), Congratulating Cruz Garza, Jr., on his retirement from Rio Grande City High School.

**HR 83** (by Guillen), Honoring Gilberto Amado Hinojosa, Sr., of Benavides, for his service to Duval County.

**HR 85** (by Craddick), Congratulating Jack and Barbara Pallick of Midland on their 50th wedding anniversary.

**HR 86** (by Craddick), Congratulating L. G. and Willie Atchley on their 70th wedding anniversary.

**HR 87** (by Burkett), Congratulating Scott Coulson on his retirement as band director of Poteet High School in Mesquite.

**HR 88** (by Rodriguez), Commending Alda Santana for her service as senior legislative assistant in the office of State Representative Eddie Rodriguez.

**HR 89** (by Guillen), Honoring Jovita Rebecca Guevara of Jovita's Beauty Salon in Benavides.

**HR 90** (by Gooden), Congratulating Hunter Pritchett of Quinlan on attaining the rank of Eagle Scout.

**HR 91** (by Y. Davis), Congratulating Patricia Barton of Dallas and LaJuana Barton of DeSoto on the publication of Faithful Remembrances Volume I.

**HR 94** (by Craddick), Congratulating Floretta and Wilbern Peden of Midland on their 60th wedding anniversary.

**HR 95** (by Craddick), Congratulating Jim and Marilyn Clanahan of Midland on their 60th wedding anniversary.

**HR 96** (by Truitt), Congratulating Chief Robert Finn on his retirement from the police services division of the Southlake Department of Public Safety.

**HR 100** (by Guillen), Commending the Honorable Jose Benito Canales for more than 30 years of service as justice of the peace of Precinct 4 of Duval County.

**HR 101** (by Alonzo), Paying tribute to Rodolfo, Marcos, Alejandro, Vicente, Jose, and Arturo Torres for their service in the armed forces of the United States of America.

**HR 103** (by Aliseda), Congratulating Tina Marie Garza on her graduation from The University of Texas at Austin.

**HR 108** (by Madden), Commending Harry LaRosiliere for his service as a member of the Plano City Council.

**HR 109** (by Madden), Commending Jean Callison for her service on the Plano City Council.

**HR 110** (by Button), Congratulating the Methodist Richardson Foundation on the success of its 2011 WildRide! WildRun! Against Cancer.

**HR 111** (by Button), Honoring Richland College on its designation as a two-year National Center of Academic Excellence in Information Assurance Education.

**HR 112** (by Guillen), Honoring Elida "Lela" Gutierrez Garcia of Benavides for her longtime service to area residents as the owner of Lela's Beauty Shop.

**HR 114** (by Guillen), Recognizing Dr. Roberto S. Margo of Rio Grande City for his service as a veterinarian.

**HR 119** (by Guillen), Commemorating the 30th anniversary of the Liberty Cafe in Freer.

**HR 120** (by Guillen), Commending Edna and Arnoldo Cantu of Freer for their contributions to their community.

**HR 121** (by Guillen), Honoring Francisco Guerra, Jr., of Starr County for his achievements in business.

**HR 122** (by Margo), Honoring Sun Metro on its receipt of a 2011 Outstanding Public Transportation System award by the American Public Transportation Association.

**HR 123** (by Margo), Congratulating retired Brigadier General Richard A. Behrenhausen and Elizabeth Behrenhausen of El Paso on their 50th wedding anniversary.

**HR 124** (by Burkett), Congratulating the baseball team of Eastfield College in Mesquite on winning the NJCAA Division III World Series.

**HR 126** (by Gooden), Congratulating William Noah Bankston on attaining the rank of Eagle Scout.

**HR 127** (by Craddick), Honoring Dr. John Mendelsohn for his 15-year tenure as president of The University of Texas M. D. Anderson Cancer Center.

**HR 128** (by Lewis), Congratulating Glen Larum on his retirement from the Texas Department of Transportation.

**HR 130** (by Guillen), Congratulating Sijifredo "Chacho" and Diana Flores of Benavides on their 50th wedding anniversary.

**HR 131** (by Guillen), Honoring Judge Benito V. Garza for his 34 years of service as justice of the peace for Precinct 3 in Duval County.

**HR 132** (by Guillen), Honoring Julian F. Stockwell for his years of service to Duval County.

**HR 133** (by Peña), Honoring U.S. Marine Corps Sergeant Jacob De la Garza for his service to this nation.

**HR 134** (by Peña), Honoring Alma Garza for her service on the Edinburg City Council.

**HR 136** (by Schwertner), Congratulating Charlotte Ramsey of Cedar Park on her retirement from Pleasant Hill Elementary School in Leander.

**HR 137** (by Schwertner), Congratulating the baseball team of Yoe High School in Cameron on winning the UIL 2A state championship.

**HR 140** (by Hughes), Congratulating Don and Linda Rhodes of Mineola on their 50th wedding anniversary.

**HR 142** (by Guillen), Honoring Rodolfo Carlos Salinas, Jr., of Rio Grande City for his contributions to his community.

**HR 143** (by Guillen), Congratulating Pedro and Estefana Villareal on their 67th wedding anniversary.

**HR 144** (by Raymond), Congratulating Juan Francisco "Pancho" Ochoa on being named the 2011 BusinessPerson of the Year by the Laredo Chamber of Commerce.

**HR 145** (by Hughes), Congratulating Juan D. and Jerry Nichols of Quitman on their 60th wedding anniversary.

**HR 147** (by Lucio, et al.), Commemorating the 2011 CowParade in Austin benefiting the Dell Children's Medical Center of Central Texas.

**HR 148** (by V. Gonzales), Congratulating Ruben Longoria Saenz and Matilda Delgado Saenz of Robstown on their 40th wedding anniversary.

**HR 151** (by Gooden), Congratulating Captain Kay Langford on her retirement from the Henderson County Sheriff's Office.

**HR 152** (by Johnson), Congratulating Lula Beatrice McGough Jordan of Dallas on the occasion of her 100th birthday.

**HR 153** (by Guillen), Honoring Martin A. Canales, Jr., of Roma for his contributions to his community.

**HR 155** (by Gooden), Commemorating the 30th anniversary of the founding of Cornerstone Baptist Church in Terrell.

**HR 156** (by Guillen), Honoring Rudy and Ann Casas for their success as the owners of Freer Iron Works in Duval County.

**HR 157** (by Gallego), Congratulating Fred Brockwell of Del Rio on earning a 2010 Spotlight Award from the American Association of Community Theatre.

**HR 159** (by Madden), Congratulating James "Bubba" Martin, Jr., on his retirement as chief juvenile probation officer for Jefferson County.

**HR 160** (by Johnson), Congratulating Lovie Mae Walker Kazee of Dallas on the occasion of her 95th birthday.

**HR 161** (by Huberty), Congratulating Ashley Alspaugh of Atascocita on her graduation from St. Pius X High School.

**HR 162** (by Huberty), Honoring William Patrick Barnett, Sr., on his 75th birthday.

**HR 164** (by D. Howard), Congratulating Benjamin Mauro of Austin on attaining the rank of Eagle Scout.

**HR 165** (by D. Howard), Congratulating Tanner Mauro of Austin on attaining the rank of Eagle Scout.

**HR 168** (by McClendon), Congratulating Carlton and Margaret Robinson of San Antonio on their 65th wedding anniversary.

**HR 169** (by Guillen), Honoring Rene G. Smith, Jr., of Starr County for his contributions to his community.

**HR 170** (by Harper-Brown), Commemorating the Eighth Annual Awareness Banquet hosted by the Dallas/Fort Worth chapter of the Korean American Coalition and extending best wishes to newly elected chapter president Soo Yeon Nam.

**HR 172** (by Gallego), Honoring Edelmira Sotelo for her 21 years of service as district director for the Del Rio office of State Representative Pete Gallego.

**HR 106** (by V. Taylor), Congratulating Daniel Robnett of Plano on his promotion to the rank of captain in the U.S. Marine Corps and on his receipt of the Navy Marine Corps Commendation Medal.

**HR 184** (by Y. Davis), Congratulating the Dallas Baptist University baseball team on its outstanding 2011 season.

**HR 185** (by Guillen), Honoring El Valle Bakery in Rio Grande City and its founders, Adolfo Berlanga and Maria del Carmen Berlanga.

**HR 188** (by Huberty), Congratulating Kelly Anne Sullivan on her graduation from Kingwood Park High School in 2010.

**HR 189** (by Cook), Commemorating the 100th anniversary of the dedication of the First United Methodist Church building in Palestine and 175 years of Methodism in the Palestine area.

**HR 190** (by Marquez), Commending Deputy Sergeant Natividad Guerrero of the El Paso County Sheriff's Office for his 25 years of service.

**HR 191** (by Marquez), Commending El Paso County Deputy Sheriff Patrick Gailey for helping an elderly woman escape a brush fire.

**HR 192** (by Marquez), Honoring Charlie Gomez for his contributions to the El Paso community.

**HR 193** (by Marquez), Congratulating the El Paso County Historical Commission on receiving a 2010 Distinguished Service Award from the Texas Historical Commission.

**HR 194** (by Marquez), Commemorating the opening of the new indoor farmers' market at Mercado Mayapan in El Paso.

**HR 195** (by Marquez), Congratulating the Volar Center for Independent Living on being named the 2011 Center for Independent Living of the Year by the State of Texas.

**HR 203** (by Gallego), Congratulating Kiki Luna on her receipt of the J. C. Montgomery, Jr., Child Safety Award from the Texas Office for Prevention of Developmental Disabilities.

**HR 204** (by Gallego), Congratulating Alfredo Delgado on his retirement from the Housing Authority of Del Rio.

**HR 205** (by Gallego), Honoring U.S. Air Force Colonel Michael R. Frankel, commander of the 47th Flying Training Wing at Laughlin Air Force Base, for his service to this country.

**HR 206** (by Gallego), Congratulating Ely Gallego of Alpine High School on being named to the Texas High School Baseball Coaches Association 2A All-State team.

**HR 214** (by Y. Davis, et al.), Congratulating Mike Rawlings on his election as mayor of the City of Dallas.

**HR 215** (by Muñoz), Commemorating the dedication of the Cali Carranza community gymnasium in Pharr and honoring Mr. Carranza for his achievements and service.

**HR 216** (by Gooden), Congratulating Dr. Coy Holcombe, Eustace ISD superintendent, on his designation as 2011 Region 7 Superintendent of the Year.

**HR 217** (by Gooden), Congratulating Coy Ellis and the Ellis Motor Company in Chandler on the 40th anniversary of the business.

**HR 219** (by Dutton, et al.), Commemorating the 50th anniversary of San Jacinto College and recognizing September 19, 2011, as San Jacinto College Day.

**HR 220** (by Y. Davis), Congratulating Michael Quildon on his reelection to the Cedar Hill Independent School District Board of Trustees.

**HR 221** (by Y. Davis), Congratulating Dan Hernandez on his reelection to the Cedar Hill Independent School District Board of Trustees.

**HR 222** (by Y. Davis), Congratulating Wendy Hodges-Kent on her election to the Cedar Hill Independent School District Board of Trustees.

**HR 225** (by Harper-Brown), Congratulating Sergeant Louis C. Felini of the Dallas Police Department on receiving a Professional Achievement Award from the Texas Commission on Law Enforcement Officer Standards and Education.

**HR 229** (by Schwertner), Congratulating Alfred and Bernice Vrazel of Buckholts on their 50th wedding anniversary.

**HR 230** (by Zerwas), Honoring the Texas Stars Service Unit on the occasion of the centennial of Girl Scouts of the USA.

**HR 231** (by Perry), Congratulating the baseball team of Coronado High School in Lubbock on its outstanding 2011 season and its appearance in the UIL 5A state title game.

**HR 234** (by Cook), Congratulating the Navarro College baseball team on winning the 2011 NJCAA Division I national championship.

**HR 235** (by Schwertner), Commending Patrick M. Reilly and the other members of Chapter 1919 of the Military Order of the Purple Heart for their efforts to bring the Texas Capitol Vietnam War Monument to fruition.

**HR 236** (by Carter), Congratulating Sean and Emily Carter of Wylie on their 10th wedding anniversary.

**HR 241** (by Harper-Brown), Recognizing Multilayer Technology for receiving its third consecutive Best of Irving Award in the Printed Circuit Board category from the United States Commerce Association.

**HR 242** (by Branch), Commemorating the 2011 Fourth of July celebration in the Greenway Parks neighborhood of Dallas and recognizing the rich history of this important community.

**HR 243** (by Branch), Congratulating David Chapasko of Preston Hollow Elementary School on being named the Dallas Independent School District 2011 Principal of the Year.

**HR 244** (by Guillen), Commending Celia Reilly Saenz for her service to her community.

**HR 246** (by Gooden), Congratulating Pauline Bond Baxter on being named grand marshal of the 2011 Fourth of July parade in Kaufman.

**HR 248** (by McClendon), Congratulating Emma Jewel Johnson on her retirement from the San Antonio Independent School District.

**HR 249** (by Branch), Commemorating the grand opening of the Katy Trail Ice House in Dallas.

**HR 250** (by Branch), Congratulating Dr. Ben Coker on his retirement as assistant superintendent of business services for Highland Park Independent School District.

**HR 251** (by Branch), Commemorating the groundbreaking for the George W. Bush Presidential Center at Southern Methodist University in Dallas.

**HR 252** (by Marquez), Commemorating the 100th anniversary of the Eighth Court of Appeals.

**HR 255** (by Margo), Congratulating Dr. Herbert H. Ortega on his receipt of the 2011 Distinguished Service Award from the Rotary Club of El Paso.

**HR 257** (by Peña), Congratulating Sally Jaime on being named the 2011 Firefighter of the Year by the Edinburg Volunteer Fire Department.

**HR 260** (by Hughes), Congratulating Wendell and Myra Shirley Crist of Yantis on their 50th wedding anniversary.

**HR 261** (by S. Davis), Commemorating the 10th anniversary of the Bellaire MENS Club.

**HR 262** (by S. Davis), Congratulating Delvin Dennis, district engineer of the Houston District, Texas Department of Transportation, on the occasion of his retirement.

**HR 264** (by Thompson), Congratulating Texas Junior State of America on its 20th anniversary.

**HR 265** (by Raymond), Honoring Terry Ruskowski for his achievements as coach, general manager, and president of the Laredo Bucks hockey team.

**HR 266** (by Hilderbran), Commending the Former Texas Rangers Foundation on its outstanding work.

**HR 269** (by Y. Davis), Congratulating the Dallas Baptist University basketball team on winning the 2010-2011 National Christian College Athletic Association Division I national championship.

**HR 272** (by Veasey), Commemorating the opening of the Wilbert M. Curtis Texas Prince Hall Library Museum in Fort Worth, which is dedicated to the history of African American Freemasonry in Texas.

**HR 273** (by Bonnen), Congratulating the Brazoswood High School Trap and Clay Shooters on their championship performance at the state Clay Trap/Sporting Clays Tournament in San Antonio.

**HR 274** (by Bonnen), Congratulating Jenna Pisarski of Brazoswood High School in Clute on becoming the 2010-2011 wrestling state champion in the 110-pound weight class.

**HR 275** (by Y. Davis), Congratulating Janet Harris on her election to the Duncanville City Council.

**HR 277** (by Gallego), Congratulating Dr. Robert M. Gates on his retirement as the United States secretary of defense.

**HR 278** (by Gallego), Honoring Dr. Ismael Sosa, Jr., for his service as president of Southwest Texas Junior College and his contributions to the Uvalde community.

**HR 283** (by Peña), Recognizing the Just Kautz It's Right nonprofit initiative and its founder, Maricela De Leon, for assisting schoolchildren in the Rio Grande Valley.

**HR 284** (by Y. Davis and Reynolds), Congratulating Machree Garrett Gibson on her election as president of the Texas Exes.

**HR 285** (by Craddick), Commemorating the 40th anniversary of Southwest Airlines.

**HR 286** (by Legler), Honoring the Pasadena Bay-Area Junior Forum on the 50th anniversary of its founding.

**HR 289** (by Riddle), Commemorating the dedication of the Spring Fire Department's new fire station and administration building.

**HCN 12** (by Dutton), Congratulating country-pop superstar Kenny Rogers on his achievements.

**HCN 27** (by Weber, W. Smith, Zerwas, Lavender, Morrison, et al.), Congratulating the nine Texas community colleges named among the nation's top 120 by the Aspen Institute.

The motion to suspend all necessary rules prevailed, and the resolutions were adopted.

### RESOLUTIONS ADOPTED

Representative Riddle moved to suspend all necessary rules to take up and consider at this time the following memorial resolutions:

**HR 29** (by Patrick), In memory of Ronald Gene Howell of Arlington.

**HR 42** (by Guillen), In memory of Eladio Carrera of Rio Grande City.

**HR 47** (by Guillen), In memory of Nidia Ann Leal.



**HR 51** (by Hilderbran), In memory of Thomas G. Ratcliffe of Kerrville.

**HR 52** (by Hilderbran), In memory of Elizabeth Ann Liggett of Kerrville.

**HR 58** (by V. Gonzales), In memory of Oscar Raul Cardenas of McAllen.

**HR 72** (by Guillen), In memory of Juan Caro of Rio Grande City.

**HR 76** (by Quintanilla), In memory of U.S. Army Corporal Eduardo Pedregon of El Paso, who gave his life while fighting in the Korean War.

**HR 80** (by Larson), In memory of Steven F. Gehrlein of San Antonio.

**HR 81** (by Guillen), Honoring the life and work of Dr. Mamiliano Juan Rodriguez.

**HR 84** (by Guillen), In memory of Lino Perez, Jr., of Rio Grande City.

**HR 92** (by Hughes), In memory of the Honorable Ed Hunt of Mineola.

**HR 93** (by Hughes), In memory of U.S. Army Chief Warrant Officer 2 Bradley Justin Gaudet of Gladewater.

**HR 97** (by Larson), In memory of George Vernon Wright, Jr., of San Antonio.

**HR 98** (by Guillen), Paying tribute to the lives of Ramiro and Hortencia "Nena" Hinojosa of Starr County.

**HR 99** (by Guillen), Honoring the life and legacy of former Starr County sheriff Reymundo Alvarez.

**HR 107** (by McClendon), In memory of the Reverend R. A. Callies of San Antonio.

**HR 113** (by Guillen), In memory of Manuel P. Guillen of Rio Grande City.

**HR 116** (by Guillen), In memory of Javier "J. V." Villanueva of Duval County.

**HR 117** (by Guillen), In memory of former Starr County judge Blas Chapa of Mission.

**HR 118** (by Guillen), Paying tribute to the life and legacy of Dr. Ramiro Narro of Weslaco.

**HR 129** (by Lyne), In memory of the Honorable Graham Boynton Purcell, Jr., of Wichita Falls.

**HR 135** (by Guillen), In memory of Rio Grande City police officer Robert A. Ramirez.

**HR 139** (by Y. Davis), In memory of Dr. Charles A. Hunter of Dallas.

**HR 146** (by Hughes), In memory of James E. Taylor of Marshall.

**HR 149** (by Madden, et al.), In memory of Dorothy Edna Schulte "Dot" McCalpin of Richardson.

**HR 150** (by Gooden), In memory of Valerie Evelyn Tumlinson of Athens.

**HR 154** (by Callegari), In memory of the Reverend John Brannon Haskins, Sr., of Houston.

**HR 158** (by Gallego), In memory of Eugene Russell Watson of Marathon.

**HR 163** (by Button), In memory of Antonio Palaganas.

**HR 173** (by Gallego), In memory of Moises L. Prieto of Del Rio.

**HR 174** (by Guillen), In memory of Jesus Alberto Solis of Starr County.

**HR 175** (by Hamilton), In memory of State District Judge Britton E. Plunk of Silsbee.

**HR 176** (by Hamilton), In memory of A. J. Leger of Beaumont.

**HR 178** (by Madden), In memory of Sharon Elaine Wright of Plano.

**HR 183** (by W. Smith), In memory of Lois Elaine Black Couch of Baytown.

**HR 186** (by Harper-Brown), In memory of Robert Ochoa Moon of Irving.

**HR 187** (by Harper-Brown), In memory of Evelyn T. Clifton of Irving.

**HR 210** (by Smithee), In memory of noted Western craftsman Jerry Cates of Amarillo.

**HR 211** (by Kolkhorst), In memory of Richard Bruce Duncan, the justice of the peace for Precinct 2 of Walker County.

**HR 223** (by McClendon), In memory of civil rights pioneer and political leader Percy Ellis Sutton.

**HR 224** (by Margo), In memory of U.S. Army Colonel (Ret.) James Lloyd Hayden of El Paso.

**HR 226** (by Harper-Brown), In memory of Lenora Josephine Cavazos of Irving.

**HR 227** (by Harper-Brown), In memory of Harold Wayne Cline, Sr., of Irving.

**HR 228** (by Harper-Brown), In memory of Jo Ann Okle of Irving.

**HR 237** (by Harper-Brown), In memory of Charles Ray Williams of Irving.

**HR 238** (by Harper-Brown), In memory of Steve K. Askins of Irving.

**HR 239** (by Harper-Brown), In memory of Lola Lenore Ernsting of Irving.

**HR 240** (by Harper-Brown), In memory of Shirley Jane Bearden Sweet of Irving.

**HR 247** (by McClendon), In memory of Angnet Marie Rice Norman of San Antonio.

**HR 253** (by Marquez), In memory of U.S. Army Staff Sergeant Nicholas Price Bellard of El Paso.

**HR 254** (by V. Gonzales, et al.), In memory of Rio Grande Valley physician, educator, and civil rights leader Dr. Ramiro Raul Casso.

**HR 256** (by Workman), In memory of Johnna Puckett Reynolds of Driftwood.

**HR 263** (by Woolley), In memory of Ramsay Gillman of Houston.

**HR 267** (by Gallego), In memory of Thomas "Jack" Plyler of Del Rio.

**HR 268** (by Gallego), In memory of Margaret Pauline Seward Newbill.

**HR 270** (by Cain), In memory of Susan Ann Cassidy of Amarillo.

**HR 271** (by Cain), In memory of Joseph Patrick Cassidy of Panhandle.

**HR 276** (by Oliveira), In memory of Ricardo A. Arzamendi of Brownsville.

**HR 279** (by Carter), In memory of U.S. Army Private Andrew Mark Krippner of Garland.

**HR 282** (by Harper-Brown), In memory of Dorothy "Dot" Tapley of Emory.

**HCR 23** (by Cain, et al.), In memory of Susan Ann Cassidy of Amarillo.

**HCR 24** (by Cain, et al.), In memory of Joseph Patrick Cassidy of Panhandle.

The motion to suspend all necessary rules prevailed, and the resolutions were unanimously adopted by a rising vote.

**SCR 5 - ADOPTED**  
**(Pitts - House Sponsor)**

The following privileged resolution was laid before the house:

**SCR 5**, Instructing the enrolling clerk of the senate to make corrections in **SB 1**.

**SCR 5** was adopted by (Record 145): 116 Yeas, 19 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alvarado; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Carter; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Deshotel; Dukes; Eiland; Eissler; Elkins; Fletcher; Flynn; Frullo; Gallego; Garza; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gooden; Guillen; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lyne; Madden; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miller, D.; Morrison; Murphy; Naishtat; Nash; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Price; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Taylor, L.; Thompson; Torres; Truitt; Villarreal; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Alonzo; Burnam; Davis, Y.; Dutton; Farias; Farrar; Gonzalez; Gutierrez; Johnson; Lozano; Mallory Caraway; Miles; Muñoz; Oliveira; Quintanilla; Reynolds; Veasey; Vo; Wallè.

Present, not voting — Mr. Speaker(C); Coleman.

Absent, Excused — Anchia; Castro; Driver; Hamilton; Lucio; Strama; Taylor, V.

Absent — Callegari; Hernandez Luna; Hilderbran; Miller, S.; Raymond; Turner.

### STATEMENT OF VOTE

When Record No. 145 was taken, I was in the house but away from my desk. I would have voted yes.

Callegari

(Aycock in the chair)

### HR 166 - ADOPTED (by Morrison)

Representative Morrison moved to suspend all necessary rules to take up and consider at this time **HR 166**.

The motion prevailed.

The following resolution was laid before the house:

**HR 166**, In memory of the Honorable Frank Harrington Crain of Victoria.

**HR 166** was unanimously adopted by a rising vote.

On motion of Representative Branch, the names of all the members of the house were added to **HR 166** as signers thereof.

(Speaker in the chair)

### MESSAGE FROM THE SENATE

A message from the senate was received at this time (see the addendum to the daily journal, Messages from the Senate, Message No. 2).

(Hunter in the chair)

### NAMES ADDED

On motion of Representative Hughes, the names of all the members of the house were added to **HR 270** and **HR 271** as signers thereof.

### HR 202 - ADOPTED (by Jackson)

Representative Jackson moved to suspend all necessary rules to take up and consider at this time **HR 202**.

The motion prevailed.

The following resolution was laid before the house:

**HR 202**, In memory of Jesse Robert Woody of Carrollton.

**HR 202** was unanimously adopted by a rising vote.

On motion of Representative Chisum, the names of all the members of the house were added to **HR 202** as signers thereof.

**HR 245 - ADOPTED**  
**(by Chisum)**

Representative Chisum moved to suspend all necessary rules to take up and consider at this time **HR 245**.

The motion prevailed.

The following resolution was laid before the house:

**HR 245**, In memory of E. E. "Shelly" Shelhamer of Pampa.

**HR 245** was unanimously adopted by a rising vote.

On motion of Representative Simpson, the names of all the members of the house were added to **HR 245** as signers thereof.

**NAMES ADDED**

On motion of Representative Gallego, the names of all the members of the house were added to **HR 157, HR 158, HR 172, HR 173, HR 203, HR 204, HR 205, HR 206, HR 207, HR 267, HR 268, HR 277, and HR 278** as signers thereof.

(Speaker in the chair)

**COMMITTEE GRANTED PERMISSION TO MEET**

Representative Gallego requested permission for the Committee on Criminal Jurisprudence to meet while the house is in session, at 7:12 p.m. today, in 3W.15, to consider **SB 29**.

Permission to meet was granted.

**COMMITTEE MEETING ANNOUNCEMENT**

The following committee meeting was announced:

Criminal Jurisprudence, 7:12 p.m. today, 3W.15, for a formal meeting, to consider **SB 29**.

**HR 290 - ADOPTED**  
**(by Hughes)**

Representative Hughes moved to suspend all necessary rules to take up and consider at this time **HR 290**.

The motion prevailed.

The following resolution was laid before the house:

**HR 290**, Commemorating the 150th anniversary of the founding of Mt. Shiloh Baptist Church in Quitman.

**HR 290** was adopted.

**ADJOURNMENT**

Representative Miles moved that the house adjourn until 10 a.m. tomorrow in memory of Yolanda Evette Williams of Houston.

The motion prevailed.

The house accordingly, at 7:12 p.m., adjourned until 10 a.m. tomorrow.

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**ADDENDUM**

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**REFERRED TO COMMITTEES**

The following bills and joint resolutions were today laid before the house, read first time, and referred to committees, and the following resolutions were today laid before the house and referred to committees. If indicated, the chair today corrected the referral of the following measures:

**List No. 1**

**SB 29** to Criminal Jurisprudence.

**SIGNED BY THE SPEAKER**

The following bills and resolutions were today signed in the presence of the house by the speaker:

**House List No. 1**

**HCR 18, HCR 19, HCR 22, HCR 25**

**House List No. 2**

**HB 3**

**Senate List No. 4**

**SB 2, SB 6, SB 7, SB 8**

**MESSAGES FROM THE SENATE**

The following messages from the senate were today received by the house:

**Message No. 1**

MESSAGE FROM THE SENATE

SENATE CHAMBER

Austin, Texas

Tuesday, June 28, 2011

The Honorable Speaker of the House

House Chamber

Austin, Texas

Mr. Speaker:

I am directed by the senate to inform the house that the senate has taken the following action:

**THE SENATE HAS PASSED THE FOLLOWING MEASURES:**

**HB 79** Lewis SPONSOR: Duncan  
Relating to fiscal and other matters necessary for implementation of the judiciary budget as enacted by **HB 1**, Acts of the 82nd Legislature, Regular Session, 2011, and to the operation and administration of, and practice and procedures in courts in, the judicial branch of state government.  
(Committee Substitute)

**HCR 26** Bonnen SPONSOR: Huffman  
Congratulating the baseball team of Brazoswood High School in Clute on winning the 2011 UIL 5A state championship.

**SB 29** Patrick SPONSOR: Simpson  
Relating to prosecution and punishment for the offense of official oppression by the intrusive touching of persons seeking access to public buildings and transportation; providing penalties.

**SCR 5** Duncan  
Instructing the enrolling clerk of the senate to make corrections in **SB 1**.

**SCR 6** Hegar  
Congratulating Melba Glyn Hill Cook on her 80th birthday.

**THE SENATE HAS ADOPTED THE FOLLOWING CONFERENCE COMMITTEE REPORTS:**

**HB 3** (18 Yeas, 12 Nays)

**SB 1** (21 Yeas, 9 Nays)

Respectfully,  
Patsy Spaw  
Secretary of the Senate

**Message No. 2**

MESSAGE FROM THE SENATE  
SENATE CHAMBER

Austin, Texas  
Tuesday, June 28, 2011 - 2

The Honorable Speaker of the House  
House Chamber  
Austin, Texas

Mr. Speaker:

I am directed by the senate to inform the house that the senate has taken the following action:

**THE SENATE HAS PASSED THE FOLLOWING MEASURES:**

**HCR 20** Craddick SPONSOR: Williams  
Commemorating the 40th anniversary of Southwest Airlines.

Respectfully,  
Patsy Spaw  
Secretary of the Senate